

United States Bankruptcy Court
District of South Carolina

LOCAL RULES

As Amended and Effective October 1, 2001



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Chief United States Bankruptcy Judge

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United States Bankruptcy Judge

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LOCAL RULE 1001-1: SCOPE, CITATION, AND APPLICABILITY OF LOCAL RULES

- (a) **Scope and Citation of Rules.** These local rules of practice apply to all pending and future cases and proceedings in the United States Bankruptcy Court for the District of South Carolina. These local rules shall be used in this district in conjunction with the Federal Rules of Bankruptcy Procedure in all cases and proceedings under Title 11 of the United States Code. Each local rule must be cited as “SC LBR ____.”
- (b) **Construction of Rules.** These local rules are not to be construed to create substantive rights or to modify or abolish rights existing under the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, or any statute, including the United States Bankruptcy Code, or to prohibit or limit the use of the Official Bankruptcy Forms.
- (c) **Applicability to a Person Appearing Without an Attorney.** A person appearing *pro se* in the bankruptcy court is bound by these local rules, and any reference in these local rules to "attorney" or "counsel" applies to a party appearing *pro se*.
- (d) **Suspension or Modification Effect of Local Rules.** For good cause shown, the court may on its own motion or on the motion of a party in interest suspend or modify the application of any local rule to a particular case or proceeding.

Editor's Notes:

This rule has been modified in several respects. The subdivisions and rule have been rewritten for clarity. The definitions and rules of construction have been moved to SC LBR 9001-1 to comply with the numbering requirements of Fed.R.Bankr.P. 9029. The procedural discussion of standing orders and amendments has been moved to SC LBR 9029-1 for the same reason. There are no changes to the effect of the rule.

LOCAL RULE 1002-1: FILING OF PETITION

- (a) **Required Form.** The petition and all required schedules, statements and lists must be filed using the Official Bankruptcy Forms prescribed for these documents. Any additional forms required by the local rules must also be timely submitted.
- (b) **Petition by Power of Attorney.** When a petition is signed on behalf of the petitioner by a person pursuant to a power of attorney (the “attorney-in-fact”), the clerk may refuse to accept the petition for filing unless each of the following requirements is met:
- (1) The power of attorney must be (a) a general power of attorney authorizing the attorney-in-fact to take any action which the person giving the power of attorney could take; or (b) a special power of attorney specifically authorizing the attorney-in-fact to file the petition;
 - (2) The power of attorney must be: (a) notarized and bear the seal of the notary public; or (b) witnessed and bear a notarized probate of the signatures of at least one of the witnesses; and
 - (3) The power of attorney must be attached to the petition.

If the original power of attorney is recorded in another court or public office, a certified true copy of the power of attorney may be substituted for the original. If the original is submitted with the petition and the attorney-in-fact requests its return, the clerk shall make a copy of the original and certify on the copy: "This is a true copy of the original power of attorney which was submitted simultaneously with the filing of the petition for relief." The certified copy shall be attached to the petition in lieu of the original.

- (c) **Notice to An Individual Debtor.** Pursuant to 11 U.S.C. § 342(b), the clerk shall post in the public Intake area of the clerk's office, distribute to all members of the bar who regularly file bankruptcy cases in this court and make available to all requesting parties copies of the court-approved form (see Local Official Form 1002-1) containing the notice provisions required by the statute. An individual debtor whose debts are primarily consumer debts and who files a petition in this court must file with such petition the form referred to above properly signed by the debtor. This paragraph does not apply to a chapter 12 case.

Editor's Notes:

This rule has been substantially modified. All references to “petition for relief” have been changed to “petition.” The term “petition for relief” does not appear in the Bankruptcy Code or Rules. The description of a person acting pursuant to a power of attorney as an “attorney” has been modified to “attorney-in-fact” in the interest of clarity. Previous subsections (c), (d) and (e) have been deleted. They duplicate requirements of the Code and Rules and therefore do not comply with Fed.R.Bankr.P. 9029(a)(1). Subsections (c) and (d) required that the petitioner sign petitions and that the debtor sign schedules and statements. This is already required by Fed.R.Bankr.P. 1008. Subsection (e) duplicated 11 U.S.C. § 302 and Fed.R.Bankr.P. 1015. The Notice to Individual Consumer Debtor was left unchanged.

LOCAL RULE 1006-1: PAYMENT OF FILING FEE, ADMINISTRATIVE FEE, AND TRUSTEE SURCHARGE FEE IN INSTALLMENTS

(a) **Requirements.** As required by 28 U.S.C. § 1930(b) and Fed.R.Bankr.P. 1006, the filing fee, the administrative fee, and the trustee surcharge fee (the “fees”) (if applicable) must be paid in full at the time the petition is filed, unless the petition is filed by an individual filing a voluntary petition. A voluntary petition for an individual will be accepted for filing by the clerk only if it is accompanied either by full payment of the fees or by a minimum payment as set forth below and a properly completed application to pay the balance of the fees in installments. The application to make installment payments must conform to Local Official Form 1006-1.

(b) **Minimum Payments and Installment Amounts.** An application to pay the fees in installments must be accompanied by the following minimum payments:

- (1) Chapter 7 - \$80
- (2) Chapter 11 - \$330
- (3) Chapter 12 - \$105
- (4) Chapter 13 - \$65;
- * \$30 of the minimum payment will be applied toward the administrative fee which is due in all cases.

The application must propose a payment plan of the balance of the fees in accordance with the following schedule:

	1 Month	2 Months	3 Months
Chapter 7	\$ 40	\$ 40	\$ 40
Chapter 11	\$200	\$200	\$100
Chapter 12	\$ 50	\$ 50	\$ 25
Chapter 13	\$ 40	\$ 40	\$ 40

(c) **Action on Application.** Following the filing of a petition and application, the application will be reviewed by the court and an order entered either granting or denying the debtor's application. The clerk will mail copies of the order to the debtor and the debtor’s attorney.

- (1) If the application is denied, the debtor must pay the remaining balance of the fees to the clerk within ten (10) days after the entry of the order. If the remaining balance of the fees is not timely paid, the court may dismiss the debtor’s case without further notice.
- (2) If the application is granted in a chapter 7, 11 or 12 case, the order will provide notice that the case will be dismissed without further notice or hearing if a payment is not made when due, unless the debtor files a request for a hearing on dismissal prior to the due date for that payment. The clerk shall give notice of this local rule to each debtor or attorney for the debtor who files an application to pay the fees in installments. The clerk shall also give notice of this local bankruptcy rule in the notice of meeting of creditors.
- (3) If the application is granted in a chapter 13 case, the order will provide that installment payments will be made to the clerk by the chapter 13 trustee from the first monies received by the trustee. An application by the debtor to convert the case to another chapter, prior to the fees being paid in full, must be accompanied either by the balance of the fees or an application to pay the fees in installments in the new chapter.
- (4) An order granting the application will provide that until the fees are paid in full, the debtor shall not pay, and no person shall accept, any money for services in connection with the case, and the debtor shall not relinquish, and no person shall accept, any property as payment for services in connection with the case.

- (d) **Payment of Unpaid Installments Upon Case Dismissal.** If a case is dismissed for any reason before the fees are paid in full, the debtor must remit the balance of the fees to the clerk within ten (10) days after entry of the order of dismissal.

Editor's Notes:

This rule has been substantially rewritten.

A requirement has been added in subsection (c) that the clerk mail copies of an order denying the application to the debtor and the debtor's attorney.

Subsection (c)(2) has been amended to provide that the case can be dismissed if the debtor misses a payment unless, prior to the due date of *that payment*, the debtor requests a hearing from the court.

Previous subsection (c) has been deleted.

LOCAL RULE 1007-1: LIST OF CREDITORS

Pursuant to Fed.R.Bankr.P. 1002, 1003 and 1007, the debtor must file with the petition a mailing matrix listing the names and addresses of the creditors who are or will be listed on the debtor's schedules (Official Bankruptcy Form 6 D-H). The mailing matrix must be submitted on a computer disk formatted in accordance with the "Clerk's Instruction: Submission of the List of Creditors on Computer Diskette (CI-1007-1(a))."¹

The mailing matrix shall suffice for the list of creditors referred to in Fed.R.Bankr.P. 1007(a)(1). Any amendment to the matrix shall be governed by SC LBR 1009-1.

The court will consider making an exception to the requirement that the mailing matrix be submitted on computer disk only in accordance with "Clerk's Instruction: Submission of the List of Creditors on Hard Copy in a Scannable Format (CI-1007-1(b))"² if the debtor files with the petition a Request for Waiver, which must conform to Local Official Form 1007-1(a). If the Request for Waiver is denied by the court, the matrix must be submitted to the clerk on computer disk within forty-eight (48) hours after the debtor is notified by the clerk of the denial.

The petition must be accompanied by a Certification Verifying Creditor Matrix which conforms to Local Official Form 1007-1(b).

Editor's Notes:

Most of the changes to this rule are stylistic only. The "waiver" has been renamed "Request for Waiver," to take into account that fact that only the court may waive the computer disk requirement, not the debtor.

¹ Clerk's Instructions are available on the court's Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk's office.

² *Ibid.*

LOCAL RULE 1007-2: FILING OF LISTS, SCHEDULES AND STATEMENTS

- (a) **Dismissal of Case on Failure to File.** Unless otherwise provided by this local rule, the court will enter an order dismissing a voluntary case upon the certification by the clerk that the debtor has failed to file lists, schedules and statements¹ within the time limits established by Fed.R.Bankr.P. 1007(c) or within the period of any extension of time granted pursuant to this local rule.
- (b) **Request for Hearing on Dismissal.** The debtor, a trustee serving in the case or a party in interest may, within fifteen (15) days after the date of the order for relief, file a request for a hearing on the application of subsection (a) of this rule to the case.
- (c) **Motion to Extend Time and Objections.** A debtor seeking an extension of time to file lists, schedules and statements must file a motion for an extension within fifteen (15) days after the date of the order for relief. If the motion seeks an extension of fifteen (15) days or less, the motion must be served upon the United States Trustee, any trustee, committee elected pursuant to § 705 or appointed pursuant to § 1102 of the Bankruptcy Code, or any other party as the court may direct. If a greater extension is sought, the motion to extend time must also be served upon all creditors unless the court orders otherwise. If the motion seeks an extension of fifteen (15) days or less, the motion to extend time shall give notice that parties objecting to the extension sought must file written objections with the court within five (5) business days after service of the motion by the debtor. If a party in interest files a timely objection to the motion, the clerk shall submit the motion and objections to the court for determination of the motion.
- (d) **Order Extending Time.** If no objection to the motion to extend time is timely filed with the court, the clerk will enter an order extending the time for filing to a date not later than thirty (30) days after the date of the order for relief.
- (e) **Hearing on Further Extension.** A motion to extend the deadline to file lists, schedules and statements by more than fifteen (15) days will be set for a hearing on notice to the parties specified in paragraph (c) of this local rule. The debtor will be required to serve the notice and motion and file proof of such service with the clerk.
- (f) **Service on Trustee or United States Trustee.** In any case in which the time for filing lists, schedules and statements is extended, the debtor must serve the trustee or, in a chapter 11 case, the United States Trustee, with a copy of such documents on or before the extended due date.
- (g) **Notice of Rule.** The clerk shall give notice of this local rule to each debtor that files a petition not accompanied by all required lists, schedules and statements. The clerk shall also give notice of this local rule in the Notice of Meeting of Creditors.
- (h) **Verification.** When schedules and statements are filed after the petition for relief, the schedules and statements must be accompanied by a verification. The verification must attest that the creditors listed on the schedules and statements and those listed on the mailing matrix (filed with the petition) have been compared and are identical. If the schedules and statements differ in any way from the matrix submitted with the petition, the verification must identify the changes.

Editor's Notes:

This rule has been completely rewritten. Reference to the filing of chapter 13 plans has been deleted, because that is governed by SC LBR 3015-1. The procedure of requesting a hearing on dismissal has been clarified. The rule provides for limited notice of motions to extend for the time of filing by fifteen (15) days or less.

¹ See "Clerk's Instruction: Debtor's Claim for Property Exemption (CI-1007-2)," for an option to Schedule C (Official Bankruptcy Form B6C).

LOCAL RULE 1007-3: FILING OF STATEMENT OF INTENTION

- (a) **Dismissal of Case.** If a debtor in a voluntary chapter 7 case who is required to file a statement of intention under 11 U.S.C. § 521(2) fails to file such a statement or a motion to extend the time for filing such a statement within the time periods established by 11 U.S.C. § 521(2) or Fed.R.Bankr.P. 1019(1)(B), the court will enter an order dismissing the case upon the clerk's certification of this failure.
- (b) **Request for Hearing on Dismissal.** The debtor, a trustee serving in the case or a party in interest may, within thirty (30) days after the order for relief, or on or before the date of the meeting of creditors, whichever is earlier, file a request for a hearing on the application of subsection (a) of this rule to the case.
- (c) **Motion to Extend Time.** A motion to extend the time for filing a statement of intention must be accompanied by a proof of service evidencing service of the motion and a notice of motion upon the United States Trustee, any appointed trustee, and all secured creditors. The notice of the motion to extend time shall provide that a party objecting to the extension must file a written objection with the court within five (5) days after service of the motion by the debtor.
- (d) **Order Extending Time.** If no objection to the motion to extend time is timely filed with the court, the court will enter an order extending the time for filing to a date not later than ten (10) days after the scheduled meeting of creditors. If the statement of intention is not filed by that date, the court will enter an order dismissing the case upon certification of this failure by the clerk.
- (e) **Objections--Determination.** If an objection is filed to the motion for extension of time, the clerk shall submit the motion and the objection to the court for determination.
- (f) **Hearing on Further Extension.** A motion to extend the time to file the statement of intention to a date more than ten (10) days after the scheduled meeting of creditors will be set for a hearing. The debtor must serve notice of the hearing upon the United States Trustee, the trustee, and all secured creditors, and must file proof of such service with the court.
- (g) **Notice of Rule.** The clerk shall give notice of this local rule to the debtor or attorney for the debtor who files a petition not accompanied by the statement of intention. The clerk shall also give notice of this local rule in the Notice of Meeting of Creditors.

Editor's Notes:

Previous subsection (a) was eliminated as being duplicative of § 521(2) of the Code and Fed.R.Bankr.P. 1019(1)(B). Previous subsection (c) was modified to clarify that both the motion and a notice of motion be served. The requirement was eliminated that the papers be served upon unsecured creditors. The remaining changes were basically stylistic.

LOCAL RULE 1009-1: AMENDMENTS OF VOLUNTARY PETITIONS, LISTS, SCHEDULES AND STATEMENTS

- (a) **Service of Amendments Adding Creditors.** If a debtor adds a creditor to the case by amending either the schedules or the list of creditors previously filed, the debtor must serve upon that creditor copies of the following:
- (1) the amendment;
 - (2) Notice for Meeting of Creditors;
 - (3) the order granting discharge (if any); and,
 - (4) any other document filed in the case which affects the rights of the creditor.
- (b) **Proof of Service and Filing Fees.** Proof of service of the amendment must be filed with the amendment and must specify the documents served. The fee for amending a list or schedule, required by 28 U.S.C. § 1930(b) and the appendix thereto, must be paid at the time of the filing of the amendment.
- (c) **Supplemental Mailing Matrix.** A supplemental mailing matrix or list of creditors containing fewer than ten (10) creditors must be submitted to the clerk with a hard copy in a scannable format. A supplemental mailing matrix or list of creditors containing ten (10) or more creditors must be submitted on a computer diskette. SC LBR 1007-1 governs requirements for lists of creditors. The supplemental mailing matrix or list of creditors should contain only creditors which are in addition to any creditors previously listed.
- (d) **Amendments in Dismissed or Closed Case.** The burden is on the filing party to determine whether a case is still open before filing an amendment, and filing fees for erroneously filed amendments will not be refunded. A chapter 7 no asset case may not be reopened to amend to add creditors.

Editor's Notes:

The first sentence of (a) was eliminated as duplicative of Fed.R.Bankr.P. 1009(a). Former subsections (d) and (e) were also eliminated. New subsection (d) incorporates the court's ruling in In re Gardner, 194 B.R. 576 (Bkrtcy.D.S.C. 1996).

LOCAL RULE 1014-1: CASE VENUE AND PROCEEDING ASSIGNMENT AND TRANSFERS OF VENUE WITHIN DISTRICT

- (a) **Case Venue Assignment.** The District of South Carolina encompasses the forty-six (46) counties of the State of South Carolina. In this district, there are three divisions -- the Columbia Division, the Charleston Division and the Spartanburg Division. The Columbia Division consists of the counties of Abbeville, Aiken, Allendale, Bamberg, Barnwell, Calhoun, Chester, Chesterfield, Darlington, Dillon, Edgefield, Fairfield, Florence, Greenwood, Hampton, Horry, Kershaw, Lancaster, Lee, Lexington, Marion, Marlboro, McCormick, Newberry, Orangeburg, Richland, Saluda, Sumter, Williamsburg and York. The Charleston Division consists of the counties of Beaufort, Berkeley, Charleston, Clarendon, Colleton, Dorchester, Georgetown, and Jasper. The Spartanburg Division consists of the counties of Anderson, Cherokee, Greenville, Laurens, Oconee, Pickens, Spartanburg, and Union. Upon the filing of a bankruptcy petition, the case shall be assigned by the clerk to its proper divisional venue according to the residence of an individual debtor or the principal place of business of any other debtor.
- (b) **Change of Divisional Venue of Case.**¹ A party in interest in a case may, at any time after the filing of the petition, move the court to change the divisional venue of the case.
- (1) **Notice and Motion.** A party seeking to change the divisional venue of a case must:
- (A) File and serve a motion with a notice to the trustee (if applicable), the debtor, all creditors, and parties in interest, using the passive notice procedure prescribed by SC LBR 9014-2 and the accompanying "Clerk's Instruction: Motions (Passive Notice)(CI-9014-2)",² and using Local Official Form 9014-2(a), and all entities the court requires on the standard matrix;
- (B) File with the clerk a certificate of service of the notice of motion and motion; and
- (2) **Venue of 11 U.S.C. § 341(a) Meeting of Creditors Unaffected.** The pendency or granting of a motion to change divisional venue will not affect the location of an 11 U.S.C. § 341(a) meeting of creditors previously scheduled.
- (c) **Change of Divisional Venue of Proceeding.**³ A party to a proceeding may move the court at any time to change the divisional venue of the proceeding. The request must be made by motion and notice served upon all other parties to the proceeding, who shall have ten (10) days within which to object. No notice is required if a consent order is submitted with the motion containing signatures of all parties to the proceeding or of their attorneys, or if the consent of all other parties to the proceeding has been obtained by movant's attorney who represents that fact in the motion. For certain types of hearings, such as an emergency or expedited hearing, the court may *ex parte* order a divisional venue change.

Editor's Notes:

Reference to 28 U.S.C. § 1404 was eliminated from subsection (b). This deals with divisional transfer by the

¹ This local bankruptcy rule addresses transfers of venue within the District of South Carolina itself. For authority concerning venue and transfers of venue between districts, see 28 U.S.C. §§ 1408, 1409 and 1412; Fed.R.Bankr.P. 1014.

² Clerk's Instructions are available on the court's Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk's office.

³ See *supra* n. 1.

District Courts, not the Bankruptcy Courts. “Debtor’s petition” was changed to simply “petition,” to take into account involuntary petitions. Subsection (b)(1) was amended to take into account the possibility that a party other than the debtor might seek to transfer venue.

Previous subsection (b)(3) was eliminated. The appointment of trustees is the responsibility of the United States Trustee, so the local rules should not purport to control whom the United States Trustee appoints.

Previous subsection (c) was changed to change references from “all adverse parties” to “all other parties to the proceeding.” As presently written, the rule would not require that a defendant serve a motion to transfer upon a co-defendant, even though the co-defendant might not agree to the transfer.

Other stylistic changes were made to the rule and the Local Official Forms.

LOCAL RULE 1015-1: AMENDING PETITIONS TO ADD SPOUSE AND SEPARATING A JOINT PETITION

(a) **Joinder of Spouse in Case.** When one spouse has filed a petition under Title 11 of the United States Code and, subsequent to that filing, the other spouse seeks to join as a debtor in the petition:

- (1) The joining spouse must file a petition, with all required statements, lists and schedules, under the same chapter as the pending case and pay the appropriate filing fee; and,
- (2) The joining spouse must move for joint administration of the two cases and must give written notice of the motion to the parties in interest in both cases using the passive notice procedure prescribed by SC LBR 9014-2 and the accompanying “Clerk’s Instruction: Motions (Passive Notice)(CI-9014-2)”¹, and using Local Official Form 9014-2(a). The notice must state that any objections to the motion must be served on the attorney for the debtor and filed in the clerk’s office within fifteen (15) days after the service of the notice. If no written objection is served and filed within fifteen (15) days, the two cases shall be jointly administered under the docket number of the first case filed.

The order for joint administration shall not affect the petition date or the date of the order for relief in either case or the substantive rights of the creditors of the different estates.

(b) **Separation of Joint Case.** When a debtor in a case commenced by the filing of a joint petition seeks to be separated from that case and to become a debtor in a separate case, the debtor shall file a motion to separate the joint case into two cases and give written notice of such motion to the parties in interest in the joint case using the passive notice procedure prescribed by SC LBR 9014-2 and the accompanying “Clerk’s Instruction: Motions (Passive Notice)(CI-9014-2).”² If the motion is granted, the joint case shall be separated upon the payment by the moving debtor of the appropriate fee. The new case number shall be assigned the case of the debtor moving to separate the case unless otherwise ordered by the court.

If the debtor seeks conversion to a different chapter from the chapter under which the joint case is pending, a motion to convert must also be filed. If the joint case is pending as a chapter 13 case and the separating debtor seeks conversion, the court will consider the motion to separate before the conversion can occur.

The order separating a previously filed joint case into two separate cases shall not affect the petition date or the date of the order for relief, or any substantive rights of the creditors of the different estates. If one of the cases is converted to a different chapter than that under which the joint case was pending, the date of the order for relief is governed by 11 U.S.C. § 348.

Editor’s Notes:

Most changes to this rule are stylistic and for clarification. There are a number of places that mention the conversion from the chapter under which the joint case *was filed*. These changes refer to the chapter under which the joint case *was pending* to take into account the possibility that the case might have previously been converted. References were added to the petition date to the paragraphs dealing with the effect of joinder or separation, because the Code has provisions that refer to both the petition date and the date of the order for relief.

¹ Clerk’s Instructions are available on the court’s Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk’s office.

² *Ibid.*

LOCAL RULE 1019-1: DISPOSITION OF FUNDS BY CHAPTER 12 OR 13 TRUSTEES UPON CONVERSION OR DISMISSAL OF CASE

Upon the conversion or dismissal of a case under chapter 12 or chapter 13 of the Bankruptcy Code, the trustee shall dispose of funds, with notice to any subsequent trustee, in the following manner:

- (a) If there is a confirmed plan in the case, the trustee shall pay any funds received before the entry of the order converting or dismissing the case to creditors pursuant to the terms of the plan. All funds received thereafter shall be paid to the debtor.
- (b) If there is neither a confirmed plan nor an order directing otherwise, the trustee shall pay all funds to the debtor without regard to when the funds were received.
- (c) Notwithstanding paragraphs (a) and (b), the trustee shall pay to the court any remaining balance of the filing fee owed to the court before making any refund to the debtor.

Editor's Notes:

Stylistic changes only.

LOCAL RULE 2002-1: NOTICES TO CREDITORS

- (a) **General Service Requirements.** Except as otherwise provided in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, these local rules specifically, or by order of the court, the proponent of an action in a case or proceeding shall serve all papers filed on all parties affected thereby. A certificate of service must be filed with the court. Papers filed or submitted in cases and proceedings must be served on the attorney for the debtor, the trustee (including the chapter 12 or 13 standing trustee when applicable) whether or not such party is an actual party to the proceeding, and the United States Trustee as specified in paragraph (d)(2) below.
- (b) **Form of Notices.** The clerk must approve the form of any notices served over the name of the court.
- (c) **Notice Requirements.** Pursuant to Fed.R.Bankr.P. 2002(m), and in accordance with the Bankruptcy Noticing Guidelines established by the Judicial Conference of the United States, the clerk may direct parties to provide noticing functions. The documents, the chapter and the party required to give notice shall be specified in “Clerk’s Instruction: Notices to Creditors (CI-2002-1).”¹
- (d) **Notices/Copies for United States Trustee.**
- (1) **Filing of Copy of Document for Transmittal to the United States Trustee by the Clerk.** The party filing a document listed below must submit to the clerk a copy for transmittal by the clerk to the United States Trustee:
- (A) petition;
 - (B) list of creditors;
 - (C) schedule of assets and liabilities;
 - (D) schedule of current income and expenditures;
 - (E) statement of financial affairs;
 - (F) disclosure of attorney compensation;
 - (G) statement of executory contracts and unexpired leases;
 - (H) statement of intention;
 - (I) list of twenty (20) largest unsecured creditors in chapter 11 case;
 - (J) list of equity security holders in chapter 11 case;
 - (K) motion or notice proposing use, lease or sale of estate property;
 - (L) plan and disclosure statement in chapter 11 case;
 - (M) plan in chapter 12 case; and,
 - (N) monthly financial report in chapter 11 and chapter 12 case;
 - (O) proceedings to modify stay.
- (2) **Service of Documents upon the United States Trustee.** In addition to those documents, pleadings, and notices required to be timely furnished to or served upon the United States Trustee pursuant to the Federal Rules of Bankruptcy Procedure, copies of the following documents must be timely served on the United States Trustee by the debtor, the trustee or the moving party:
- (A) **In a Chapter 11 Case:** All pleadings, documents, applications, motions except proofs of claim or interests, pleadings in adversary proceedings to which the United States is not a party, and those documents listed in paragraph (d)(1) above.
 - (B) **In a Chapter 7 or Chapter 12 Case:** All pleadings, documents, applications, motions except reaffirmation agreements, lien avoidance motions, motions for relief from stay and related pleadings, pleadings in adversary proceedings, and those documents listed in (d)(1) above.

¹ Clerk’s Instructions are available on the court’s Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk’s office.

- (C) **In a Chapter 13 Case:** No documents other than those required by the Federal Rules of Bankruptcy Procedure are to be served upon the United States Trustee.
- (D) **In All Cases:** All pleadings relating to proceedings challenging the dischargeability of debts or the discharge of the debtor must be served upon the United States Trustee.

As part of the filing requirements set forth in Fed.R.Bankr.P. 1002, 1003 and 1007, the mailing matrix in all cases filed under chapters 7, 11, and 12 must list the United States Trustee as a party in interest as follows:

OFFICE OF THE UNITED STATES TRUSTEE
1201 MAIN STREET SUITE 2440
COLUMBIA SC 29201

Editor's Notes:

The requirements that service upon an insured depository institution be made in accordance with Fed.R.Bankr.P. 7004(h) was deleted. This duplicates the federal rule. In chapter 11 cases, parties are now to serve upon the United States Trustee copies of motions for relief from the automatic stay and related pleadings. The rule authorizes the clerk to issue "Clerk's Instruction: Notices to Creditors (CI-2002-1)"¹ with the detail regarding delegating noticing previously included in the rule.

¹ Clerk's Instructions are available on the court's Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk's office.

LOCAL RULE 2002-2: RETURNED NOTICES

The following procedures shall be followed in connection with the mailing of the Notice of Meeting of Creditors and the Discharge of Debtor:

- (a) The clerk, or any other person directed to give these notices, shall mail the notices using either the addresses provided by the debtor or alternative addresses provided by creditors.
- (b) The envelopes enclosing the notices must show the return address of the attorney for the debtor, or, if there is no attorney of record, of the debtor.
- (c) The attorney for the debtor or the debtor, if there is no attorney of record, must forward any notice returned to the attorney or the debtor by the United States Postal Service to the creditor or party in interest at the correct address.
- (d) The attorney for the debtor or the debtor, if there is no attorney of record, must exercise due diligence to provide the court, in writing, with a correct address of any creditor or party in interest whose notice is returned by the United States Postal Service so that future notices are sent to the correct address. The debtor or the debtor's attorney must provide to the clerk a written statement if a correct address cannot be found for a creditor.

Editor's Notes:

The title of the rule has been changed. References to voluntary petitions have been removed, as these procedures should also be followed in connection with adjudicated involuntary cases. The remaining changes are stylistic.

LOCAL RULE 2003-1: FAILURE TO APPEAR AT MEETING OF CREDITORS

- (a) **Dismissal.** In a voluntary case, upon certification to the court by the United States Trustee that either the debtor or attorney for the debtor has not appeared at the meeting of creditors, a continued meeting of creditors, or a special meeting of creditors, or that the debtor or the attorney for the debtor has appeared but was unprepared to proceed, the court may dismiss the case without further notice or hearing. Notice of this local rule shall be provided in the Notice of Meeting of Creditors.
- (b) **Rescheduled Meeting of Creditors.** If the trustee or the United States Trustee agrees before a meeting of creditors to reschedule the meeting at the request of the debtor, the attorney for the debtor, or if *pro se*, the debtor, shall obtain the date and time of the rescheduled meeting of creditors from the trustee or United States Trustee and shall forthwith give written notice to all other parties in interest of the rescheduled meeting of creditors. Notice must be given in a form approved by the clerk. The attorney for the debtor or, if *pro se*, the debtor, shall file proof of such service with the clerk within five (5) days after the date originally set for the meeting of creditors. If the trustee or United States Trustee agrees at the meeting of creditors to continue or to reschedule the meeting, the new date and time may be announced at the meeting without further notice.

Editor's Notes:

The first sentence of subsection (b) was deleted, as being within the province of the United States Trustee. Technically speaking, trustees have the authority to continue or reschedule creditors meetings only if that authority is delegated to them by the United States Trustee.

Previous subsection (c) was eliminated. The deadline for dischargeability complaints will not be effected by the rescheduling of the section 341 meeting. See Fed.R.Bankr.P. 4004(b).

Other stylistic changes were made.

LOCAL RULE 2014-1: EMPLOYMENT OF PROFESSIONALS

An application for an order approving the employment of a professional, and the verified statement of the professional, required to be filed pursuant to Fed.R.Bankr.P. 2014, and a proposed order approving the employment, must be filed with the court and served on the United States Trustee. An objection to the proposed employment may be filed with the court and served on the movant within twenty (20) days of the filing of the application. Unless otherwise ordered by the court, the employment, upon approval, shall be effective as of the date of the filing of the application.

Editor's Notes:

This rule was added in the 1999 edition of the rules. The 2001 amendment deleted the requirement that an application be presented to the Office of the United States Trustee prior to filing with the court.

LOCAL RULE 2015-1: MONTHLY REPORTS

In accordance with 11 U.S.C. § 704(8), § 1107(a), § 1203, and Fed.R.Bankr.P. 2015, the debtor in possession or, if applicable, the trustee, shall file, not later than the 20th day of each month, with the clerk the original and one copy of a written financial report for the preceding month. Unless the United States Trustee otherwise agrees, this report must conform to the format provided by the United States Trustee and must contain a statement of all receipts, disbursements, and payments to employees, including, but not limited to, wages and withholding, unemployment and social security taxes. The original report must be signed by the debtor or, if applicable, the trustee.

Editor's Notes:

Only minor changes to this rule have been made. The last sentence was deleted as being duplicative of SC LBR 2081-1.

LOCAL RULE 2016-1: RETAINERS HELD BY PROFESSIONAL PERSONS AND CHAPTER 11 ATTORNEY FEE APPLICATION

In a chapter 11 case, the attorney for the debtor in possession or the attorney for the trustee may apply for allowance of compensation and reimbursement of expenses on or after thirty (30) days after the date of the order for relief. A second application may be made on or after sixty (60) days after the first application, and a third application may be made on or after ninety (90) days after the second application. After one hundred eighty (180) days after the date of the order for relief, applications may not be made more than once every one hundred twenty (120) days, unless the court orders otherwise. In a chapter 11 case a retainer held by a professional shall be maintained in a trust account. The professional shall not draw against the retainer post-petition except upon order of the court.

Editor's Notes:

Minor changes have been made for clarity. A provision governing the application of retainers has been added.

LOCAL RULE 2081-1: CHAPTER 11 REQUIREMENTS

Chapter 11 debtors in possession shall comply with the following requirements:

- (a) **Monthly Reports.** Reports must be filed in each case in accordance with SC LBR 2015-1. These reports must be complete, legible, and accurate. A report is past due if it is not filed on or before the 20th day of the month during which it is due.
- (b) **Quarterly Fees.** Quarterly fees due to the United States Trustee must be paid not later than the first day of the second calendar month following the end of the calendar quarter for which they are due. 28 U.S.C. § 1930(a)(6). Payments must be mailed early enough to ensure that the United States Trustee receives the fees by the due date. All plans of reorganization must provide for the payment of quarterly fees to the United States Trustee until the case is closed, dismissed or converted.
- (c) **Disclosure Statement and Plan.** Unless otherwise ordered by the court, a disclosure statement and plan of reorganization shall be filed by the debtor not later than one hundred eighty (180) days after the entry of the order for relief. The debtor shall prosecute its disclosure statement and plan in a timely manner.

The court may consider for approval written amendments made prior to the hearing on the disclosure statement or plan at that hearing.

If any plan of reorganization or disclosure statement filed by the debtor is not confirmed or approved by the court, the debtor shall make any amendment, modification or supplement necessary to correct the deficiency within fifteen (15) days or whatever time period the court may require.

- (d) **Bank Accounts and Insurance.** The debtor must provide to the United States Trustee before the original date set for the meeting of creditors such information as the United States Trustee reasonably requests regarding bank accounts and insurance policies maintained by the debtor. This information must be kept current by the debtor at all times.
- (e) **Confirmation Order.** Pursuant to Fed.R.Bankr.P. 3020(e), an automatic 10-day stay of an order confirming a plan is in effect unless the court enters an order avoiding such stay. An order avoiding such stay may be issued when: (1) a motion or the plan has been filed and served upon the parties which specifically requests that the 10-day stay not apply and to which there has been no response or objection filed; or (2) all parties in interest have given written consent to the avoidance of the stay.
- (f) **Post Confirmation.** Following the entry of an order confirming a plan of reorganization, the debtor, pursuant to Fed.R.Bankr.P. 2015(a) and SC LBR 2015-1, shall continue to file monthly operating reports until such time as the case is closed by the clerk. These reports shall be in a form satisfactory to the United States Trustee. The original and one (1) copy of the report shall be filed with the clerk. The debtor shall state in each report any action taken toward consummation of the plan. The debtor shall, within one hundred twenty (120) days, or whatever time period the court may require, after the date the confirmation order is entered, do the following:
 - (1) file a report of substantial consummation and final report and an application for a final decree which indicates that, in the debtor's opinion, upon the approval of the application for final decree, the case will have been fully administered; or,
 - (2) take appropriate action to amend the plan.
- (g) **Procedure on Default.** If the debtor violates the terms of this rule by failing to file timely a document, to furnish information or to make a payment required by this rule, the United States Trustee may provide written notice to the debtor and to the attorney for the debtor of the debtor's default. This notice must be filed with the clerk. The notice must provide that the debtor will have fifteen (15) days from the date of the notice to cure the deficiency. If the deficiency is not cured within the fifteen (15) day period, the United States Trustee may apply

to the court for the dismissal of the case or for the conversion of the case to one under chapter 7.

If the deficiency is cured within the fifteen (15) day period, but the debtor later fails to comply with any provision of this rule, the United States Trustee may apply to the court for the dismissal of the case or for the conversion of the case to one under chapter 7. The United States Trustee is not required to provide the debtor an opportunity to cure the subsequent default.

- (h) **Procedure on Subsequent Default.** The United States Trustee may apply for dismissal or conversion by filing an affidavit of default which states that the debtor has not complied with the terms of this local rule, and which recommends either dismissal or conversion and states the grounds for that recommendation. The United States Trustee shall serve the affidavit of default on the debtor and the attorney for the debtor before filing it with the court. The affidavit shall state specifically the provisions of this rule which have been violated and that the United States Trustee has complied with the terms of this rule.

Upon receipt of the affidavit of default, the court may enter an order dismissing the case or converting the case to one under chapter 7 without further notice or hearing.

- (i) **Parties Wishing to be Consulted.** A creditor or other party in interest, excluding the debtor, who desires to be consulted by the United States Trustee before the United States Trustee files an affidavit of the debtor's default under this local rule may notify the United States Trustee of such desire in writing at 1201 Main Street, Suite 2440, Columbia, SC 29201. Before filing an affidavit of default, the United States Trustee shall consult with parties who have provided such written notice or certify to the court that a good faith effort has been made by the United States Trustee to consult with those parties, without success.

The clerk shall give notice of this rule in the Notice of Meeting of Creditors.

Nothing in this rule prohibits the United States Trustee or other parties in interest from filing a motion for relief based in whole or in part on the violation of requirements of this rule by the debtor.

Editor's Notes:

The one hundred eighty (180) day period to file a report of substantial consummation was reduced to one hundred twenty (120) days. The time period for amendments was set at fifteen (15) days or such time as the court orders. Otherwise, the changes were stylistic only.

Changes from Operating Order 00-1 are incorporated in paragraph (e).

LOCAL RULE 2082-1: CHAPTER 12 REQUIREMENTS

- (a) **Filing of Plan.** The debtor must file the chapter 12 plan, within the time limits set forth in 11 U.S.C. § 1221, in form and substance similar to Local Official Form 2082-1.
- (b) **Liquidation Analysis.** The debtor must attach as an exhibit to the proposed plan a liquidation analysis on the form provided to the debtor by the trustee after the commencement of the case.
- (c) **Feasibility Analysis.** The debtor must attach as an exhibit to the plan a feasibility analysis setting forth the feasibility of the plan which shall include, at a minimum, the following:
 - (1) The projected income for the family farming operation during the year in which the debtor's first plan payment is due;
 - (2) An itemized list of the sources of such income including the amount of property to be sold and the anticipated price per unit therefore;
 - (3) An itemized statement of the debtor's expenses of doing business and living costs;
 - (4) The amount available for payment to the trustee under the terms of the confirmed plan; and,
 - (5) Any amount to be retained by the debtor for expenditure as operating capital in the ensuing year.
- (d) **Notice.** The clerk, or some other person as the court may direct, shall provide to the debtor or attorney for the debtor, a notice to be served by first class mail on the United States Trustee, the trustee, all creditors and all equity security holders, of the date and time fixed for the pre-confirmation conference, the deadline for filing objections to the plan, and the date and time of the hearing to consider confirmation of a plan. Unless the court fixes a shorter period, the notice shall be served at least thirty (30) days before the confirmation hearing. A copy of the plan and all exhibits shall accompany the notice.
- (e) **Objections.** Objections to confirmation of the plan must be filed with the court and served on the debtor, the trustee, the United States Trustee and on any other entity designated by the court, at or before the time fixed for the pre-confirmation conference. An objection to confirmation is governed by Fed.R.Bankr.P. 9014 and SC LBR 9014-4. The court may refuse to consider an objection that does not comply with this rule.
- (f) **Summary of Operations.** The debtor shall serve on the trustee, at least five (5) days before the pre-confirmation conference, a completed summary of operations in a form to be provided by the trustee to the debtor after commencement of the case.
- (g) **Pre-Confirmation Conference.** A conference between the debtor, the attorney for the debtor, creditors, the trustee, equity security holders, and parties in interest shall be held at least twenty (20) days before the hearing on confirmation of the debtor's plan. The purpose of the conference is to attempt to resolve objections to the plan and to narrow the issues for the court. The trustee shall preside at the conference. Any amended plan resulting from the conference must be filed with the court and served on the United States Trustee, the trustee, all creditors and equity security holders, at least ten (10) days before the hearing on confirmation of the debtor's plan, in order to be considered at the confirmation hearing. Objections to the amended plan, if any, must be filed and served on the debtor, any attorney for the debtor, the trustee and the United States Trustee prior to the confirmation hearing to be considered at the confirmation hearing.
- (h) **Confirmation Hearing.** After notice as provided in paragraph (d) above, the court will conduct and conclude a hearing within the time prescribed by 11 U.S.C. § 1224 and confirm the plan if it meets all of the standards for confirmation in 11 U.S.C. § 1225(a).
- (i) **Order of Confirmation.** The order of confirmation will conform to the official form and the notice of entry thereof shall be mailed promptly by the clerk, or some other person as the court may direct, to the debtor, the trustee, the United States Trustee, creditors, equity security holders, and other parties in interest.

Editor's Notes:

This rule has minor stylistic changes and one substantive change. The pre-confirmation hearing must now occur at least twenty (20) days before confirmation, with additional time to object.

Virtually all changes are stylistic, or for clarity. The last sentence of subsection (e) was changed to provide that the court *may refuse* to consider improperly filed objections. Former subsection (j), was eliminated because it was substantive, not procedural.

LOCAL RULE 3003-1: PROOFS OF CLAIM OR INTEREST IN CHAPTER 11 CASES

Proofs of claim or interest of nongovernmental entities required or permitted to be filed under Fed.R.Bankr.P. 3003(c) must be filed within ninety (90) days after the first date set for the meeting of creditors called under § 341 of the Bankruptcy Code, and such proofs of claim or interest of governmental entities must be filed within one hundred eighty (180) days after the date of the order for relief, except as otherwise specified in the Bankruptcy Code or Federal Rules of Bankruptcy Procedure.

The Notice of Meeting of Creditors must give notice of the last dates for filing proofs of claim or interests.

Editor's Notes:

Previously, this was SC LBR 3001-1. The changes are largely stylistic. Previously, the rule required governmental entities to file their claims "before one hundred eighty (180) days after" the date of the order for relief. The language has been changed to require that the claim be filed "within one hundred eighty (180) days after" the date of the order for relief.

LOCAL RULE 3011-1: DISPOSITION OF UNCLAIMED DIVIDENDS

- (a) **Procedures.** All unclaimed funds submitted to the clerk by a trustee in a chapter 7, 12 or 13 case pursuant to 11 U.S.C. § 347(a) shall be deposited into the United States Treasury. The procedures to be followed by any creditor/debtor seeking the release of funds to which it may be entitled are prescribed in “Clerk’s Instruction: Disposition of Unclaimed Dividends (CI-3011-1)”¹ and accompanying Local Official Forms.” Failure to comply with the requirements of “Clerk’s Instruction: Disposition of Unclaimed Dividends (CI-3011-1)”² may result in the motion for release of funds being denied.
- (b) **Fraud.** Any indication of fraud by persons/entities filing a motion seeking the release of unclaimed funds will be promptly reported to the United States Attorney.

Editor’s Notes:

The revisions are to provide the procedural instructions and forms for the submission of and claim for unclaimed dividends via a Clerk’s Instruction.

¹ Clerk’s Instructions are available on the court’s Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk’s office.

² Ibid.

LOCAL RULE 3012-1: VALUATION OF SECURITY

(a) **Chapters 11 or 12.** In a case under chapter 11 or 12, a party in interest seeking a determination of the value of a claim secured by a lien on property in which the estate has an interest pursuant to 11 U.S.C. § 506(a) and Fed.R.Bankr.P. 3012 must use the passive notice procedure prescribed by SC LBR 9014-2 and the accompanying “Clerk’s Instruction: Motions (Passive Notice) (CI-9014-2)”¹ and must submit simultaneously to the clerk the following:

- (1) A passive notice (See Local Official Form 9014-2(a));
- (2) A valuation motion signed by movant's attorney and verified by the movant containing an acknowledgment that both movant and movant’s attorney have read Fed.R.Bankr.P. 9011 (See Local Official Form 3012-1(a));
- (3) A proposed order (See Local Official Form 3012-1(b));
- (4) A certificate of service of the above documents upon the holder of the secured claim (if the holder is not the movant), the debtor (if the debtor is not the movant) and any trustee serving in the case; and
- (5) Stamped envelopes addressed to each creditor named in the motion and to the debtor or the attorney for the debtor.

Documents 1-3 above must conform to the Local Official Forms.

If no objection to the motion is filed and served, the proposed order may be entered by the court.

If an objection to the motion is served and filed within twenty-five (25) days after the date of service, the hearing will be held as noticed.

(b) **Chapter 13.** In a case under chapter 13, a party in interest seeking a determination of the value a claim secured by a lien on property in which the estate has an interest pursuant to 11 U.S.C. § 506(a) and Fed.R.Bankr.P. 3012 must include a motion for such relief in the Notice, Chapter 13 Plan and Related Motions, pursuant to SC LBR 3015-1.

(c) **Chapter 7.** In a case under chapter 7, a party in interest may not seek a determination of the value of a claim secured by a lien on property pursuant to 11 U.S.C. § 506(a) and Fed.R.Bankr.P. 3012 for purposes of voiding the lien pursuant to 11 U.S.C. § 506(d).

Editor’s Notes:

The rule and the forms have been edited to apply to valuation motions filed by parties other than the debtor. The name of the rule and certain wording were edited to reconcile with Fed.R.Bankr.P. 3012. A new provision has been added in accordance with Dewsnup v. Timm, 502 U.S. 410, 112 S.Ct. 773, 116 L.Ed2d 903 (1992), Ryan v. Homecoming Financial Network, 253 F.3d 778 (4th Cir. (Md.) June 1, 2001), and In re Virello, 236 B.R. 199 (Bankr. D.S.C. 1999).

¹ Clerk’s Instructions are available on the court’s Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk’s office.

LOCAL RULE 3015-1: CHAPTER 13 REQUIREMENTS

- (a) **Form of Plan.** The Notice, Chapter 13 Plan and Related Motions (“the Form Plan” - Local Official Form 3015-1(a)) approved for use in this district must be filed in each chapter 13 case in this district.
- (1) **Adoption, Availability, and Amendment of Form Plan.** The judges of the court have approved a Form Plan for use in this district. The Form Plan is available from the clerk and the standing trustees, is available in electronic form for download on the court’s Internet Web site at www.scb.uscourts.gov, and is available at the Intake Division of the clerk’s office. Persons wishing to propose changes to the Form Plan must submit those proposed changes in writing to the Clerk of Court and the Local Rules Committee. The proposed changes will be considered in consultation with the standing trustees and recommendations made to the judges of the court. If the court adopts a proposed change to the Form Plan, the revised Form Plan will be made immediately available by the clerk. The clerk will take appropriate steps to advise the bar of revision of the Form Plan by the court.
- (2) **Nonconforming Plan.** A debtor wishing to propose a plan with provisions different from those in the Form Plan must append to the Form Plan a statement that the Form Plan contains alterations. The alterations to the Form Plan must be highlighted by the use of bold face type, underlining or italics. A debtor or a debtor’s attorney who signs and files a Form Plan without such a statement and highlighting represents to the court that the Form Plan has not been altered, and will be subject to appropriate sanctions if the Form Plan has been altered.
- (b) **Filing and Service of Form Plan.** Unless the court orders otherwise, the debtor shall file an original and one (1) copy of a Form Plan not later than fifteen (15) days after the commencement of the chapter 13 case. The debtor shall serve copies of the Form Plan upon all creditors, the standing trustee, and other interested parties, and file the Form Plan and a certificate of its service with the court.
- (c) **Motion for Determination of Value pursuant to 11 U.S.C. § 506(a).** In order to obtain a determination of the value of a claim or collateral pursuant to 11 U.S.C. § 506(a), a debtor shall include such motion in the Form Plan.
- (d) **Motion for Lien Avoidance Pursuant to 11 U.S.C. § 522(1).** In order to avoid a lien pursuant to 11 U.S.C. § 522(f), the debtor shall include such motion in the Form Plan.
- (e) **Modification of Plan or Related Motions before Confirmation.** A debtor who seeks to modify a Chapter 13 Plan or Related Motions before confirmation must complete a modified Form Plan, inserting language to identify it as a modification, and a notice conforming to Local Official Form 3015-1(b). The debtor shall serve the modified Form Plan and notice on the standing trustee and all parties which might be adversely affected by the modification. The original and one (1) copy of the modified Form Plan and notice must be filed with the clerk, together with proof of service.
- (f) **Objections to Confirmation of Plan or to Related Motions.**
- (1) **Deadline for Filing:** Any objection to confirmation of the Plan, a Motion for Determination of Value, or a Motion for Lien Avoidance must be filed not later than twenty-five (25) days after the filing of the Form Plan.
- (2) **Service and Filing of Objection:** The objecting party shall file an original and one (1) copy of the objection with the court and serve copies on the standing trustee and the debtor or debtor's attorney. The objection must be accompanied by proof of service.
- (3) **Hearing on Objections.** If a timely objection is filed before the date of the confirmation hearing, the objection will be considered at that hearing. If the deadline for filing objections occurs after the date of the confirmation hearing, a hearing on any timely objection filed after that date will be scheduled and noticed by the court.

- (g) **Confirmation of Chapter 13 Plan and Approval of Related Motions If No Objection to Confirmation or Related Motions.** If the time for filing objections has passed and all timely filed objections have been considered by the court or otherwise resolved, the court, without hearing, may enter an order confirming the plan and granting the relief sought in the related motions.
- (h) **Modification of Plan after Confirmation.** A debtor, standing trustee, or holder of an allowed unsecured claim seeking the modification of a confirmed chapter 13 plan pursuant to 11 U.S.C. § 1329 must comply with Fed.R.Bankr.P. 3015(g). The motion to modify the confirmed plan must comply with SC LBR 9014-1. The proposed modification must be attached to the motion seeking modification of the plan, and must be in the form of a completed Form Plan with language inserted to indicate that it is a modified plan. The party seeking modification must also complete a notice confirming to Local Official Form 3015-1(c). The notice, motion and attachments, must be served in accordance with Fed.R.Bankr.P. 3015(g), and the original and one (1) copy of the notice, motion and attachments must be filed with the clerk, together with proof of service.
- (i) **Dismissal of Case for Defects with Chapter 13 Plan and Related Motions**
- (1) **Dismissal of Case for Failure to Timely File or Distribute Plan**
- (A) Order of Dismissal. The court will enter an order dismissing a chapter 13 case upon certification by the clerk that the debtor has not timely met the timeliness of filing requirements of subdivision (b) of this local rule.
- (B) Notice of Possible Dismissal. The clerk shall give notice of this local rule to the debtor or debtor's counsel at the time the petition is filed if the Form Plan does not accompany the petition. The clerk shall also give notice of this local rule in the Notice of Meeting of Creditors.
- (2) **Dismissal of Case Upon Denial of Confirmation.** If the court denies confirmation of the debtor's original or subsequently modified Form Plan, the case will be dismissed unless, within ten (10) days after the denial of confirmation:
- (A) the debtor files a new Modified Form Plan;
- (B) the debtor moves to convert the case to another chapter of the Bankruptcy Code;
- (C) the debtor files a motion for reconsideration or appeals the denial of confirmation; or
- (D) the court otherwise orders.

If the court denies a motion to modify a plan after confirmation, the confirmed plan will remain in full force and effect.

Editor's Notes:

This rule has been substantially rewritten. The approved chapter 13 Form Plan has also been substantially revised.

LOCAL RULE 3018-1: BALLOTS IN CHAPTER 11 CASES ¹

Not fewer than three (3) days before the first date set for the hearing on the confirmation of a chapter 11 plan, the plan proponent shall file with the clerk an original and one (1) copy of a tally of the ballots. The plan proponent shall also serve a copy of the tally upon the United States Trustee. The tally shall state the number and dollar amount of acceptances and rejections for each class of claims and the amount of acceptances and rejections for each class of interests.

The court may refuse to consider, in connection with the confirmation of a plan, a timely filed ballot which is not signed, which does not clearly indicate acceptance or rejection of the plan, or which does not clearly indicate its inclusion in a specific class of claims or interests under the plan.

Upon motion at the confirmation hearing, the court may extend the time for balloting and may permit the change or withdrawal of ballots.

Editor's Notes:

This rule is new. It has been included to help assure that counsel for the plan proponent in chapter 11 cases know the status of the balloting before the time of the confirmation hearing. The rule also gives notice that the court may permit changes to the balloting at the confirmation hearing.

¹ Local Official Form 3018-1 is the ballot form for use in this court.

LOCAL RULE 4001-1: PROCEEDINGS TO MODIFY STAY

- (a) **Motion Requirement and Fee.** Relief from, or modification of, the automatic stay provided by 11 U.S.C. § 362, shall be requested by motion under Fed.R.Bankr.P. 9014. The motion shall be accompanied by the fee prescribed by the Bankruptcy Court Fee Schedule promulgated pursuant to 28 U.S.C. § 1930(b) and the appendix thereto.
- (b) **Selecting a Hearing Date.** The movant shall select a hearing date from a list of available dates provided by the clerk under the following guidelines.
- (1) If the motion is made in a Columbia Division case, the hearing shall be scheduled in Columbia before the judge to whom the case is assigned, absent conflict;
 - (2) If the motion is made in a Charleston or Spartanburg Division case under chapter 7, 12 or 13, the hearing shall be scheduled in the same division as the case before any judge designated to sit in that division; and
 - (3) If the motion is made in a Charleston or Spartanburg division case under chapter 11, the hearing shall be scheduled in the same division as the case before the judge to whom the case is assigned, absent conflict.¹

If the movant selects a hearing date which is more than thirty (30) days after the moving party makes its request for relief, the movant will be deemed to have waived its rights under 11 U.S.C. § 362(e) relating to the automatic lifting of the stay. The stay shall remain in effect until further order of the court.

If the movant fails to properly select a hearing date, the movant shall be deemed to have waived the automatic lifting of the stay pursuant to 11 U.S.C. § 362(e) and the court may, in its discretion, either schedule a hearing on the motion or deny the relief sought.

- (c) **Service and Transmittal of the Motion.** At least fifteen (15) days before the scheduled hearing date, the movant shall serve on the debtor, attorney for the debtor, any trustee serving in the case, the United States Trustee if chapter 11 case, any committee elected or appointed in the case, and any other party in interest entitled to notice pursuant to Fed.R.Bankr.P. 4001(a), and shall simultaneously transmit to the clerk for filing:
- (1) the 11 U.S.C. § 362 motion;
 - (2) the movant's certification of facts;
 - (3) the notice of hearing on the motion;
 - (4) a blank certification of facts form (applicable to service on *pro se* parties only); and
 - (5) a certificate of service of items 1-4.

Note: The moving party should determine if the case has been dismissed or closed before filing these documents. Filing fees will not be refunded for motions filed in dismissed or closed cases.

- (d) **Objections.** Any party objecting to the relief sought in the motion shall, within ten (10) days after service thereof, serve upon the movant and file with the clerk its objection to the motion, its responding certification

¹ If a hearing date is required within the thirty (30) day period before a specific judge (Ch. 11's), and the judge assigned to the case is not scheduled for that city within that time, the movant must contact a courtroom deputy clerk for assistance which may include scheduling the motion for hearing in Columbia, if deemed necessary

of facts, and a certificate of service. Failure to complete, serve and file a responding certification of facts or to complete fully the certification of facts shall be deemed an agreement with the certification of facts filed by the movant.

If no objection is filed and served upon the movant within ten (10) days after the service of items 1-4, Paragraph (c) above, the movant shall:

- (1) file a certificate stating that no objection has been served upon the movant or filed with the clerk; and
 - (2) submit a proposed order granting the relief sought in the motion.
- (e) **Defaults.** Movant should prosecute defaults in a timely fashion before the hearing in order to remove them from the hearing calendar.
- (f) **Withdrawals.** A request to withdraw a §362 motion at the hearing may be granted in the discretion of the court.

A request to withdraw a §362 motion prior to the hearing must be stated in writing and received by the courtroom deputy clerk at least twenty-four (24) hours prior to the hearing. Such writing must indicate the reason for the withdrawal, that the party opposing the §362 motion, if any, does not oppose the withdrawal, that all parties who have had notice of, and who have timely responded to, the motion have been notified of the withdrawal and are not opposed to it, and that no party is expected to appear at the hearing before the court. Any request which does not comply with these requirements shall be denied, and the parties shall be expected to appear at the hearing for the court to consider any request for withdrawal.

- (g) **Settlements.** Unless otherwise allowed by the court, all settlements shall be effectuated by a Consent Order or certified Settlement Order presented at or before the hearing or by the entry of a order which adopts the statement of settlement terms which is announced at the hearing. A settlement of a §362 motion may be indicated by one of the following.
- (1) If a Consent Order or certified Settlement Order (See Local Official Form 4001-1(c)) and a certificate of no objection by the trustee, if applicable, are in proper form and received by the courtroom deputy clerk twenty-four (24) hours before the scheduled hearing, the parties may be excused from attending the hearing.
 - (2) The terms of a settlement may be announced at the hearing by one or both of the counsel to the motion and approved by the court.
- (h) **General Matters.** Neither settlement orders nor default orders should contain provisions which attempt to make the order binding upon a trustee or creditors in the event of the conversion of the case to another chapter or provisions which purport to limit the effect of the automatic stay in the event of a dismissal and refile of the case. Such provisions require a showing of cause before the court after a hearing.
- (i) **Stay of Order.** Pursuant to Fed.R.Bankr.P. 4001(a)(3), an automatic 10-day stay of an order granting a motion for relief from the automatic stay made in accordance with Fed.R.Bankr.P. 4001(a)(1) is in effect unless the court orders otherwise. This court may enter an order avoiding the automatic imposition of the 10-day stay when: (1) a motion has been filed and served upon the parties which specifically requests that the 10-day stay not apply and to which there has been no response or objection filed; (2) there is a previous consent order or order of settlement pending which provided for the granting of such relief upon specified conditions and the underlying motion or agreement requested the avoidance of the automatic 10-day stay; or (3) all parties in interest have given written consent to the avoidance of the stay.
- (j) **Continuances.** No telephonic requests for a continuance will be considered.

A request for continuance made at the §362 hearing may be granted in the discretion of the court upon a showing of good cause.

When requesting continuances prior to the hearing, such a request must be in writing from the movant and received by the courtroom deputy clerk or chambers at least twenty-four (24) hours prior to the hearing. Such writing must indicate good cause for the continuance, that all parties who have had notice and who have timely responded to the motion agree to the continuance, and that the movant waives the automatic lifting of the stay. If granted, the courtroom deputy clerk shall advise the movant's counsel by telephone or telefax and will give the date and time of the continued hearing. That party shall be responsible for advising all other interested parties who may appear at the hearing. It is the movant's responsibility to determine the date, time and location of the continued hearing inasmuch as no written notice shall be provided by the court.

In obtaining a continuance, the parties to the motion shall be deemed to have no scheduling conflicts for the continued date, that the continued hearing may be set for any court location in the District of South Carolina, and that the continued hearing may be set before any judge of the court if so designated.

- (k) **Reinstatement of Stay.** Absent extraordinary circumstances, requests to reinstate the automatic stay or requests to vacate an order granting relief from the automatic stay which are based solely upon the parties' agreement to allow the debtor further time to cure any arrearage or default shall not be approved by the court.
- (l) **Compliance With Rule.** Any party failing to comply with the provisions of this local rule may be denied the opportunity to appear and to be heard, or, the requested relief may be denied. Additional guidelines are specified in "Clerk's Instruction: Proceedings to Modify Stay (CI-4001-1)".²

Editor's Notes:

Many of the changes are stylistic. The section related to the scheduling of hearings was reworded for clarity. Previous subsection (d) was moved to a new SC LBR 4001-4, because it deals with more than the modification of the stay.

Changes from Operating Order 00-1 are incorporated in paragraph (i).

² Clerk's Instructions are available on the court's Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk's office.

LOCAL RULE 4001-2: OFFSETS OF OVERPAYMENT OF FEDERAL TAXES

- (a) **Applicability.** This local rule applies to all cases under chapters 7, 12, and 13 of the Bankruptcy Code.
- (b) **Notice of Proposed Offset.** The Internal Revenue Service may, in any case under chapter 7, 12 or 13, serve upon the debtor, the debtor's attorney and the trustee, by certified mail, a notice of intent to offset against any overpayment of \$2,500 or less made by the debtor on account of pre-petition taxes and pre-petition accruals thereon, any pre-petition taxes and pre-petition accruals thereon due to the United States.
- (c) **Objections.** The debtor, attorney for the debtor or trustee shall, within thirty (30) days of the mailing of a notice of intent to offset, notify the Chief, Special Procedures Staff, in writing, by certified mail, of any objection to the offset; such an objection need not be filed with the court. If an objection to the offset is timely served on the Internal Revenue Service, the automatic stay imposed by 11 U.S.C. § 362 shall remain in effect and no offset will be made except upon order of the court, after motion by the Internal Revenue Service and a hearing. If no objection to the offset is timely served, the Internal Revenue Service may proceed with the offset without further notice.

Editor's Notes:

This rule was reorganized and clarified, but the substance was not changed.

LOCAL RULE 4001-3: COLLECTION OF CHILD SUPPORT FROM WAGES

- (a) **Applicability.** This local rule applies in all cases under chapters 12 and 13 of the Bankruptcy Code now pending or hereafter filed in this district. No court permission or modification of the automatic stay is necessary to collect child support from post-petition income of debtors in cases under chapter 7 and 11. See 11 U.S.C. § 362(b)(2).
- (b) **Motion and Service.** The custodian or custodial parent of a child of the debtor, the assignee of such custodian or custodial parent, or the representative of the clerk of the state court authorized to collect child support may file with this court a motion for permission to collect child support for such child. In order to file a motion for permission to collect child support, the moving party must submit simultaneously to the clerk the following:
- (1) the executed notice of motion for permission to collect child support (See Local Official Form 9014-2(a));
 - (2) the executed motion for permission to collect child support (See Local Official Form 4001-3(a)) accompanied by a copy of the child support agreement or child support order;
 - (3) a certificate of service of the notice and motion on the debtor, the attorney for the debtor, and trustee, if one has been appointed (See Local Official Form 4001-3(b)); and
 - (4) a proposed order (See Local Official Form 4001-3(c)).

Documents 1-4 above must conform to the Local Official Forms.

- (c) **Objections.** Any objections to the motion for permission to collect child support must be filed and served within twenty (20) days after the mailing of the notice and motion for permission to collect child support. Objections must comply with SC LBR 9014-4 and be served upon the moving party and filed with the court. If an objection is timely filed and served, no further action may be taken by the moving party except upon order of the court.
- (d) **Order.** If no party files a timely objection to the motion for permission to collect child support, the court may enter the proposed order filed with the motion, and the moving party may proceed to collect the child support on the conditions set forth in this local rule, without further notice or hearing.
- (e) **Source of Collection.** Collection of child support under this local rule is limited to the earnings of the debtor from services performed after the commencement of the case.
- (f) **Chapter 13 Limitation.** In a chapter 13 case, the right to collect child support pursuant to this local rule is subordinated to, and subject to, any order to pay the trustee issued by this court and such child support may be collected only to the extent there are excess monies remaining after compliance with the order to pay the trustee.

Any party entitled to collect child support under applicable nonbankruptcy law may collect post-petition child support from the wages of the debtor/parent to the extent that those wages exceed payments to the chapter 13 trustee and/or from that portion of any property that the debtor/parent has claimed as exempt without further order or relief from the automatic stay. Any claim for pre-petition child support must be collected in accordance with 11 U.S.C. § 507(a)(7) and § 1322(a)(2). The custodian or custodial parent of said child must file a timely claim for past due child support owing as of the date of the bankruptcy petition.

Editor's Notes:

This rule has been substantially rewritten. The subsections have been rearranged to flow better, and headings have been added. The name of the motion provided for by the rule has been changed from "Motion of Intent to Collect

Child Support” to “Motion for Permission to Collect Child Support.” The rule previously appeared to require service by first class mail, apparently to the exclusion of other forms of service. There is no reason to do this. The rule permitted the collection of post-petition support from the “post-petition wages, earnings, or income” of the debtor. “Earnings” and “income” could include collections from rental properties, proceeds of the sale of inventory, etc. The language has been changed to more nearly track the exclusion in § 541(a)(6) of “earnings from services performed by an individual debtor after the commencement of the case.”

The probate has been removed from the certificate of service. There is no need to have the certificate notarized.

This rule has also been changed so that it does not apply to chapter 7 and 11 cases. Because post-petition earnings of individual debtors are not property of the estate of chapter 7 and chapter 11 debtors under § 541(a)(6), and because under § 362(b)(2) there is no stay of the collection of alimony, maintenance, or support from property that is not property of the estate, there is no need for persons seeking to collect support to bring this motion. This has been clearly stated in subsection (a) of the local rule for the guidance of the family court bench and bar.

LOCAL RULE 4001-4: AGREEMENTS RELATING TO RELIEF FROM THE AUTOMATIC STAY, PROHIBITING OR CONDITIONING THE USE, SALE OR LEASE OF PROPERTY, PROVIDING ADEQUATE PROTECTION, USE OF CASH COLLATERAL, AND OBTAINING CREDIT

- (a) **Form of Motion.** A motion for the approval of an agreement pursuant to Fed.R.Bankr.P. 4001(d) shall conform to Local Official Form 4001-4. The court shall not enter an order containing agreed upon terms prior to the expiration of the notice as required by Fed.R.Bankr.P. 4001. In instances where an order for use of cash collateral or to obtain credit or for adequate protection is needed prior to that time, the court shall enter an order as necessary.
- (b) **Procedure upon Debtor's Default.** If a debtor fails to comply with the terms of a consent order which provides for the modification of the 11 U.S.C. § 362 stay, the moving party who seeks relief from the stay shall submit to the court a certification of the debtor's noncompliance which specifies the grounds and a proposed order granting the relief sought. Modification of the stay is effective only upon entry of the order by the court.
- (c) **Guidelines for 4001(d) notices and orders.** All notices, proposed consent orders or applications for approval of Fed.R.Bankr.P. 4001 agreements must recite whether the notice, proposed order or stipulation contains any provision that the court will not normally approve and should identify any such provision and explain the justification for the provision. If such an order or stipulation is presented in connection with a hearing, counsel shall call the court's attention to such provision.
- (1) The following will not normally be approved:
- (A) Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection, or amount of the secured party's lien or debt;
 - (B) Provisions or findings of fact that bind the estate or all parties in interest with respect to the relative priorities of the secured party's lien and liens held by persons who are not party to the stipulation. (This would include, for example, an order approving a stipulation providing that the secured party's lien is a "first Priority" lien);
 - (C) Waivers of Bankruptcy Code §506(c), unless the waiver is effective only during the period in which the debtor is authorized to use cash collateral or borrow funds;
 - (D) Provisions that operate, as a practical matter, to divest the debtor in possession of any discretion in the formulation of a plan or administration of the estate or limit access to the court to seek any relief under other applicable provisions of law;
 - (E) Cross-collateralization clauses, i.e., clauses that secure pre-petition debt by post-petition assets in which the secured party would not otherwise have a security interest by virtue of its pre-petition security agreement;
 - (F) Releases of liability for the creditor's alleged pre-petition torts or breaches of contract;
 - (G) Waivers, assignment, transfer or encumbrance of avoidance actions arising under the Bankruptcy Code;
 - (H) Automatic relief from the automatic stay upon default, conversion to chapter 7, or appointment of a trustee without further hearing and order;
 - (I) Waivers of the procedural requirements for foreclosure mandated under applicable non-bankruptcy law;
 - (J) Adequate protection provisions that create liens on claims for relief arising under the

Bankruptcy Code;

- (K) Waivers, effective on default or expiration, of the debtor's right to move for a court order pursuant to Bankruptcy Code § 363(c)(2)(B) authorizing the use of cash collateral in the absence of the secured party's consent;
 - (L) Findings of fact on matters extraneous to the approval process. (For example, in connection with an application to borrow on a secured basis, a finding that the debtor cannot obtain unsecured credit would be acceptable, whereas a "finding" that the lender acted in good faith in declaring the pre-petition loan in default would not be acceptable.) Do not include long histories of the relationship between the parties or a lengthy recitation or detailing of documents. A finding that notice is proper should be replaced by a provision which states that notice has been given according to the certificates of service filed by the debtor;
 - (M) Do not include provisions which merely recite the Bankruptcy Code. (For example, a provision that in the event the adequate protection provided by the debtor is insufficient that the creditor is entitled to an administrative priority claim is unnecessary since that is the effect of Section 507(b));
 - (N) Any provision which purports to bind a later appointed trustee to the agreement of the debtor;
 - (O) Any provision which prohibits or restricts the court's ability to vacate, modify, or stay the effect of the Consent Order or which provides for conditional approval by the court before notice and an opportunity for hearing. Do not include a provision in which the court independently finds "all of the terms of the Agreement to be fair and reasonable" for such a provision presumes a detailed determination which is not always undertaken.
- (2) Provisions that will normally be approved:
- (A) Withdrawal of consent to use cash collateral or termination of further financing, upon occurrence of a default or conversion to chapter 7;
 - (B) Securing any post-petition diminution in the value of the secured party's collateral with a lien on post-petition collateral of the same type as the secured party had pre-petition, if such lien is subordinated to the compensation and expense reimbursement (excluding professional fees) allowed to any trustee thereafter appointed in the case;
 - (C) Securing new advances or value diminution with a lien on other assets of the estate, but only if the lien is subordinated to all the expenses of administration (including professional fees) of a superseding chapter 7 case;
 - (D) Reservations of rights under Bankruptcy Code §507(b), unless the stipulation calls for modification of the Codes' priorities in the event of a conversion to chapter 7;
 - (E) Reasonable reporting requirements, including access to books and records;
 - (F) Reasonable access for inspection of collateral, including access for purposes of appraisal and environmental impact studies;
 - (G) Requirement to segregate cash collateral and the use of Lockbox Agreements;
 - (H) Reasonable reporting and controls regarding compliance with any budget approved by the court, including provisions that material deviations from the budget constitute a default

under the Consent Order or stipulation;

- (I) Proof of insurance;
- (J) Reasonable carve out for professional fees and costs.

Editor's Note:

This rule was added in the 1999 edition of the rules and amended in 2001. It contains some information previously contained in SCLBR 4001-1. Because the rule deals with cash collateral, obtaining credit, etc., in addition to the automatic stay, it needed to be set out separately from the prior rule.

LOCAL RULE 4003-1: MOTIONS TO AVOID LIEN

- (a) **Applicability.** This local rule applies to cases under chapters 7, 11 and 12 of the Bankruptcy Code.
- (b) **Filing Requirements.** In a chapter 7, 11, or 12 case, a debtor seeking to avoid a lien pursuant to 11 U.S.C. § 522(f) shall use the passive notice procedure prescribed by SC LBR 9014-2 and the accompanying “Clerk’s Instruction: Motions (Passive Notice)(CI-9014-2)”¹ and must submit simultaneously to the clerk the following:
- (1) A passive notice (See Local Official Form 9014-2(a));
 - (2) The lien avoidance motion (See Local Official Form 4003-1(a) and 4003-1(b));
 - (3) A certificate of service of the above documents upon the applicable creditor or creditors and the trustee (if one is appointed);
 - (4) A proposed order (See Local Official Form 4003-1(c) and 4003-1(d)); and
 - (5) Stamped envelopes addressed to each creditor named in the motion and to the debtor or the debtor’s attorney.
- Documents 1-4 above must conform to the Local Official Forms.
- (c) **Objections.** If no objection to the motion is filed and served, the proposed order may be entered by the court.
- If an objection to the motion is served and filed within twenty-five (25) days after the date of service, the hearing will be held as noticed.
- (d) **Chapter 13.** In a case under chapter 13, a debtor seeking to avoid a lien on property pursuant to 11 U.S.C. § 522(f) and Fed.R.Bankr.P. 4003 must include a motion for such relief in the Notice, Chapter 13 Plan and Related Motions, pursuant to SC LBR 3015-1.

Editor’s Notes:

The rule itself has been substantially reorganized. New subsection (a) explicitly provides that the rule applies to cases under chapters 7, 11 and 12, and that chapter 13 debtors must comply with SC LBR 3015-1.

The rule has been changed so that hearings are scheduled on the motion, and not on the objection.

The Local Official Forms were reworded, and the Fed.R.Bankr.P. 9011 acknowledgments were removed.

¹ Clerk’s Instructions are available on the court’s Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk’s office.

LOCAL RULE 5001-1: OFFICE OF THE CLERK

- (a) **Business Hours.** The public business hours of the office of the clerk are from 9:00 a.m. to 4:30 p.m. all days except Saturday, Sunday and legal holidays. In an emergency, and subject to review by the court, arrangements may be made during public business hours to file papers at other times.
- (b) **Building Address of the Court.** UNITED STATES BANKRUPTCY COURT
1100 LAUREL STREET
COLUMBIA SC 29201
- (c) **Mailing Addresses of the Court.** UNITED STATES BANKRUPTCY COURT
POST OFFICE BOX 1448
COLUMBIA SC 29202-1448
- (d) **Electronic Access to the Court.¹**
- | | |
|--|--|
| (1) Voice Case Information System (VCIS) | 803-765-5211 or
800-669-8767 |
| (2) Public Access to Court Electronic Records (PACER Classic) ² | 803-765-5965
800-410-2988 |
| (3) PACER Via Internet (6/1/99) ³ | pacer.scb.uscourts.gov |
| (4) Internet Web Site | www.scb.uscourts.gov |
- (e) **Examination of Records Kept by the Clerk.** All papers filed in any case or proceeding shall remain at all times in the custody of the clerk. Pursuant to 11 U.S.C. § 107, papers filed in a case under Title 11, United States Code, and the dockets of the court are public records and open to examination at reasonable times without charge. A petition and subsequent documents in a case may be examined during public business hours (see above) at the office of the clerk and are also available electronically through the Internet Web site. The clerk may require that a party reviewing a paper file sign a custody receipt. A paper file which has been pulled for review for a scheduled hearing may not be available for examination until after the hearing. Petitions and other documents that have been filed but have not been fully processed in the clerk's office or entered into the court's case management computer system may not be available for examination until processing and entry is completed.
- (f) **Payments of Fees to the Clerk.** All fees paid to the clerk shall be in the form of cash, a certified check drawn on a bank which is a member of the Federal Reserve System, a United States Postal Service Money Order (no other type of money order is acceptable), or a check drawn on the account of an attorney or other entity that is acceptable to the clerk. All checks must be made payable to "Clerk, United States Bankruptcy Court". No check or money order shall be made payable to an individual court employee.

Editor's Notes:

Minor stylistic changes only. Changes from Operating Order 97-2 were incorporated.

¹ See "Clerk's Instruction: Automation Services (CI-5001-1)."

² Access fee applies, see Clerk's Instruction: Automation Services (CI-5001-1)."

³ *Ibid.*

LOCAL RULE 5004-1: DISQUALIFICATION OF JUDGE

Please Note:

SC LBR 5004-1 is abrogated effective October 1, 2001.

LOCAL RULE 5005-1: FILING OF DOCUMENTS IN CLERK'S OFFICE

To facilitate the administration of bankruptcy cases, the clerk is authorized to issue "Clerk's Instruction: Filing of Documents in Clerk's Office (CI-5005-1)"¹ which shall set forth the criteria regarding the form of documents presented for filing with this court. Should documents submitted for filing not conform to the prescribed criteria or contain the prescribed information, the court may issue an Order Returning Document or an Order Striking Document.

The clerk shall not accept for filing any petition or document not accompanied by the filing fee prescribed by 28 U.S.C. §1930 and the Appendix thereto (Bankruptcy Court Miscellaneous Fee Schedule).

Editor's Notes:

This rule has been shortened by authorizing the clerk to issue "Clerk's Instruction: Filing of Documents in Clerk's Office (CI-5005-1)"² with the detailed criteria for filing of documents.

¹ Clerk's Instructions are available on the court's Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk's office.

² *Ibid.*

LOCAL RULE 5010-1: REOPENING CASES

A party seeking to reopen a case shall file with the court a motion and shall serve it on the United States Trustee, the previously appointed trustee, all creditors and parties in interest (including any creditor to be added by amendment to the original petition, schedules or statements) using the passive notice procedure prescribed by SC LBR 9014-2 and the accompanying "Clerk's Instruction: Motions (Passive Notice)(CI-9014-2)"¹ and must also include Local Official Form 5010-1. The motion shall be accompanied by proof of such service and shall give a fifteen (15) day period from the date of service for the filing and service of objections. The motion shall also be accompanied by the fee required by Item 9 of the Bankruptcy Fee Schedule, unless a motion to waive the fee, citing the circumstances warranting a waiver, is filed. If the debtor is the movant, the debtor shall give notice of any amendment made to the petition, list, schedule or statement as specified in SC LBR 1009-1

Absent extraordinary circumstances, the court will not allow the reopening of a case under the following circumstances:

- (a) In a chapter 7 no asset case for the purpose of amending to add creditors, and;
- (b) In a case for the purpose of filing a reaffirmation agreement which has been entered after the granting of the discharge.

Editor's Notes:

This rule was amended to conform to Operating Order 98-2, entered by the court on June 10, 1998, and this court's ruling in In re Gardner, 194 B.R. 576 (Bkrcty.D.S.C. 1996).

¹ Clerk's Instructions are available on the court's Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk's office.

LOCAL RULE 5011-1: WITHDRAWAL OF REFERENCE

- (a) **Form of Request; Place for Filing.** A request for withdrawal, in whole or in part, of the reference of a case or proceeding referred to the bankruptcy court, other than a sua sponte request by a bankruptcy judge, shall be by motion filed with the clerk of the bankruptcy court. The motion must conform to SCLBR 9014-1. In addition, the motion must clearly and conspicuously state that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE."
- (b) **Stay.** The filing of a motion to withdraw the reference does not stay proceedings in the bankruptcy court. The procedures relating to stay shall be those set forth in Fed.R.Bankr.P. 5011.
- (c) **Designation of Record.** The moving party shall serve on all interested parties and file with the clerk of the bankruptcy court, together with the motion to withdraw the reference, a designation of those portions of the record of the case or proceeding in the bankruptcy court that the moving party believes will reasonably be necessary or pertinent to the United States District Court's consideration of the motion. Within ten (10) days after service of such designation of record, any other party may serve and file a designation of additional portions of the record. If the record designated by any party includes a transcript of any hearing or trial, or a part thereof, that party shall immediately after filing the designation, deliver to the bankruptcy court's electronic court recorder operator a written request for the transcript and make satisfactory arrangements for payment of its cost. All parties shall take any action necessary to enable the clerk to assemble and transmit the record.
- (d) **Responses to Motions to Withdraw the Reference; Reply.** Opposing parties must file with the clerk of the bankruptcy court, and serve on all parties to the matter for which withdrawal of the reference has been requested, their written responses to the motion to withdraw the reference, within ten (10) days after being served with a copy of the motion. The moving party may serve and file a reply within ten (10) days after service of a response.
- (e) **Transmittal to and Proceedings in United States District Court.** When the record is complete for purposes of transmittal, but without awaiting the filing of any transcripts, the clerk of the bankruptcy court shall promptly transmit to the clerk of the United States District Court the motion and the portions of the record designated. After the opening of a docket in the United States District Court, documents pertaining to the matter under review by the United States District Court shall be filed with the clerk of the United States District Court, but all documents relating to other matters in the bankruptcy case or adversary proceeding or contested matters shall continue to be filed with the clerk of the bankruptcy court.

Editor's Notes:

Very minor stylistic changes only.

LOCAL RULE 5073-1: CAMERAS AND RECORDING DEVICES

The taking of photographs, videotaping¹, electronic recording by anyone other than an authorized representative of the clerk, or the transmission for broadcast or other use, in the courtroom, hearing room, the court's offices, or in the corridors immediately adjacent thereto, during the progress of judicial proceedings, administrative hearings, other business of the court, or during a recess, shall not be permitted. Other proceedings designed and conducted as ceremonies, such as the administration of oaths of office to appointed officials of the court, the presentation of portraits, and similar ceremonial occasions, may be photographed in or broadcast from the courtroom with the express permission and under the supervision of the court.

Editor's Notes:

Stylistic changes only. The reference to "deputy clerk of court" has been changed to "authorized representative of the clerk" to give the clerk flexibility if necessary.

¹The court's videoconferencing systems linking its various places of holding court, which can only be operated by an authorized representative of the clerk, is not included in this rule.

LOCAL RULE 5076-1: ELECTRONIC COURT RECORDING - BENCH CONFERENCES

All bench conferences called by the judges of this court during hearings or trials shall be off the record unless otherwise stated when the bench conference is called, and the electronic court recorder operators shall turn off the recording machines at any time a bench conference is called unless otherwise directed by the presiding judge. The electronic court recorder operator's log shall indicate the index number on the tape when the bench conference is called and the time at which it is called and at which it ends.

Editor's Notes:

Minor stylistic changes only.

LOCAL RULE 6004-1: SALE OF PROPERTY

- (a) **Sale of All Property of Estate Having Minimal Value.** The trustee or debtor in possession may give general notice of intent to sell property when all of the nonexempt property of the estate has an aggregate gross value of less than \$2,500. Such notice may be given at the meeting of creditors, and the clerk is to provide notice in the Notice of Meeting of Creditors that this procedure may be followed.
- (b) **Passive Notice Procedure.** Motions to sell property free and clear of liens pursuant to Fed.R.Bankr.P. 6004 and 11 U.S.C. § 363 must be made using the passive notice procedure prescribed by SC LBR 9014-2 and the accompanying “Clerk’s Instruction: Motions (Passive Notice) (CI-9014-2)”,¹ and must also include the appropriate Local Official Forms 6004-1(a), 6004-1(b), and 6004-1(c). These motions shall be served on all parties in interest.
- (c) **Order Approving Sale.** A proposed order approving a sale must specify the terms of the sale and not merely incorporate by reference the terms of the Notice of Sale.
- Pursuant to Fed.R.Bankr.P. 6004(g), an automatic 10-day stay of an order authorizing the use, sale, or lease of property other than cash collateral is in effect unless the court orders otherwise. This court may enter an order avoiding the automatic imposition of the 10-day stay when: (1) a motion or notice has been filed and served upon the parties which specifically requests that the 10-day stay not apply and to which there has been no response or objection filed; (2) there is a previous consent order or order of settlement pending which provided for the granting of such relief upon specified conditions and the underlying motion or agreement requested the avoidance of the automatic 10-day stay; or (3) all parties in interest have given written consent to the avoidance of the stay.
- (d) **Report of Sale.** A report of sale conforming to Local Official Form 6004-1(b) must be filed by the moving party within ten (10) days after the closing of any sale of estate property. If the sale does not close within thirty (30) days after court approval or within thirty (30) days after the time for filing objections has expired, whichever is later, the moving party shall notify the court and the United States Trustee in writing of the status of the sale.
- (e) **Adversary Proceeding Requirement.** The following relief must be sought by adversary proceeding and cannot be obtained using the passive notice procedure in SC LBR 9014-2:
- (1) Determination of the validity, priority, or extent of a lien or other interest in estate property; and,
 - (2) Approval, pursuant to 11 U.S.C. § 363(h), for the sale of both the interest of the estate and that of a co-owner in estate property.

Editor’s Notes:

Revised to reflect change in passive notice procedures.

Changes from Operating Order 00-1 are incorporated as paragraph (c).

¹ Clerk’s Instructions are available on the court’s Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk’s office.

6006-1: ASSUMPTION, REJECTION OR ASSIGNMENT OF AN EXECUTORY CONTRACT OR UNEXPIRED LEASE

Pursuant to Fed.R.Bankr.P. 6006(d), an automatic 10-day stay of an order authorizing the trustee to assign an executory contract or unexpired lease under 11 U.S.C. §365(f) is in effect unless the court orders otherwise. This court may enter an order avoiding the automatic imposition of the 10-day stay when: (1) a motion or notice has been filed and served upon the parties which specifically requests that the 10-day stay not apply and to which there has been no response or objection filed; (2) there is a previous consent order or order of settlement pending which provided for the granting of such relief upon specified conditions and the underlying motion or agreement requested the avoidance of the automatic 10-day stay; or (3) all parties in interest have given written consent to the avoidance of the stay.

Editor's Notes:

This rule was added to include Operating Order 00-1, entered by the court on January 27, 2000.

RULE 6007-1: ABANDONMENT OR DISPOSITION OF PROPERTY

- (a) **Abandonment by Specific Notice.** Estate property may be abandoned pursuant to Fed.R.Bankr.P. 6007 by using the passive notice procedure prescribed by SCLBR9014-2 and the accompanying “Clerk’s Instruction: Motions (Passive Notice)(CI-9014-2)”¹, and must also include the appropriate Local Official Forms 6007-1(a) and 6007-1(b). These must be served on the United States Trustee, all creditors, indenture trustees, and committees elected pursuant to 11 U.S.C. § 705 or appointed pursuant to 11 U.S.C. § 1102 of the Bankruptcy Code.

When the debtor, trustee and secured creditor consent to, and seek court approval of, a modification of the automatic stay in addition to abandonment, Local Official Form 6007-1(c) shall be submitted.

- (b) **Abandonment at Meeting of Creditors.**² Property may also be abandoned at a meeting of creditors in any case in which a trustee has been appointed and in which notice that estate property may be abandoned at the meeting has been given in the Notice of Meeting of Creditors. To effect abandonment in this manner, the trustee must announce the abandonment at the meeting of creditors and hear no objections. The trustee must clearly identify the property abandoned at the meeting of creditors on the trustee's minute sheet which is filed with the court. If the debtor, trustee and secured creditor consent to abandonment of property and to modification of the automatic stay and the property was abandoned by the trustee at the meeting of creditors, an order conforming to Local Official Form 6007-1(d) may be submitted to the court. Such an order shall be accompanied by a certificate of no objection by the trustee conforming to Local Official Form 6007-1(e).
- (c) **Use of Forms.** No forms other than the Local Official Forms specified in this local rule shall be used to obtain the abandonment of property pursuant to Fed.R.Bankr.P. 6007.

Editor’s Notes:

The 1999 version of the rules reflected change in the passive notice procedure. The 2001 version adds footnote 2.

¹ Clerk’s Instructions are available on the court’s Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk’s office.

² Abandonment under this paragraph is not permitted in Chapter 11 cases; the Notice of Meeting of Creditors in Chapter 11 cases does not contain the notice requirements of this paragraph.

LOCAL RULE 7005-1: FILING OF DISCOVERY

Please Note:

SC LBR 7005-1 is abrogated effective October 1, 2001.

LOCAL RULE 7016-1: ADVERSARY PROCEEDINGS

- (a) **Applicability.** This rule applies only to trials of and hearings related to adversary proceedings commenced pursuant to Fed.R.Bankr.P. 7001 et. seq.
- (b) **Continuance of a Trial or Hearing**
- (1) **Continuances Generally.** A trial or hearing will not be continued except as set forth in this local rule. Requests for continuances will not be granted unless good cause is shown. Telephone requests for continuances will not be considered by the court. No trial or hearing will be removed from the court's calendar on a request for a continuance prior to the entry of an order granting the continuance. Unless a continuance is granted, the parties shall appear before the court and be ready to proceed at the time scheduled for the trial or hearing. Noncompliance may result in the court's imposing appropriate sanctions, or dismissing the action.
- (2) **Continuance by Consent.** Not later than five (5) business days before the scheduled date for a trial or hearing, the parties to the matter may file with the court a proposed order of continuance which includes a detailed statement of the cause for the requested continuance. The proposed order must bear the consent of each party to the matter set for trial or hearing and provide space for the court to designate the time and place of the continued trial or hearing. The court will advise the parties of the disposition of the request for the continuance before the scheduled date for the trial or hearing.
- (3) **Continuance by Motion.** Absent consent as set forth above, a party seeking a continuance of a trial or hearing must file a motion seeking such a continuance. The motion must be accompanied by an affidavit of the moving party or its attorney setting forth in detail the cause for the requested continuance, and must be filed in the office of the clerk and served on each party to the matter scheduled for trial or hearing at least five (5) business days before the date of the trial or hearing. Motions for continuances made after that time or at the trial or hearing will only be granted upon a showing of exigent or emergency situations. If a motion for continuance is granted, the court may require the moving party to notify each party which has received notice of the trial or hearing of the continuance and of the continued date and time.
- (c) **Modification of Scheduling Orders.** Each deadline set forth in a scheduling order must be met unless the court for good cause shown alters the deadline. Any such alteration must be requested by motion which must be granted prior to the expiration of the deadline.
- (d) **Notice of Settlement of Adversary Proceedings or Related Matters.** If an adversary proceeding or a matter related to an adversary proceeding is settled, parties to the proceeding or matter may file a written notice of the settlement not fewer than two (2) business days before the scheduled date of the trial or hearing. The notice of settlement must be in form of:
- (1) a proposed order, consented to by each party who has responded or filed a pleading relating to the matter, or certified by one counsel to contain the agreed terms of settlement, which provides, if appropriate, for the termination of the proceeding; or
- (2) a certification (Local Official Form 7016-1) of the plaintiff or the moving party setting forth with specificity the terms of the settlement and stating that each party who has responded or filed a pleading relating to the matter has, prior to the trial or hearing, been notified of, and agreed to, the settlement.

Simultaneously with the filing of the notice of settlement, the filing party shall give telephonic notice of the settlement to the appropriate courtroom deputy clerk.

If the notice is in the form of a certification, the party filing the certification shall submit a proposed order consented to by each party which has responded or filed a pleading relating to the matter providing, if appropriate, for the termination of the proceeding. Unless otherwise ordered by the court, the order must be submitted to the court within fifteen (15) days after the court has received the notice of settlement; provided, however, that if the consent of more than two parties is required, the proposed order must be submitted within thirty (30) days. If the order is not submitted within these time frames, the terms set forth in the certification will become the order of the court, which will not be vacated or modified by later order except upon a showing of manifest injustice.

Absent notification as set forth in the preceding paragraphs, an attorney for one of the parties may appear before the court at the time scheduled for the trial or hearing and present the court with a proposed consent order of settlement which provides, *inter alia* and if appropriate, for the termination of the proceeding. In lieu of a consent order, the attorney may read into the record the material terms of the settlement and that record shall become the order of the court unless the court is presented with a consent order as set forth above.

- (e) **Notice of Withdrawal of a Matter Set for Hearing.** Notice of the withdrawal of a proceeding set for hearing must be provided to the court in accordance with Fed.R.Bankr.P. 7041.
- (f) **Dismissal of Proceedings for Lack of Prosecution.** Except where a complaint objecting to a discharge or dischargeability has been filed, an adversary proceeding may be dismissed by the court thirty (30) days after the filing of the complaint for lack of prosecution where no service of process has been made and certified to the court and the original or reissued summons has expired.

Dismissal under this local rule shall be without prejudice unless the delay has resulted in prejudice to an opposing party.

Editor's Notes:

This rule has been substantially rewritten.

RULE 7026-1: DISCOVERY

- (a) **Objections to be in Writing.** All objections to interrogatories, depositions, requests, or applications under Fed.R.Bankr.P. 7026 through Fed.R.Bankr.P. 7037, as well as all motions and replies thereto concerning discovery matters, shall be in writing. If time does not permit the filing of a written motion, the court may waive this requirement.
- (b) **Objections to Discovery Process.** An objection to any interrogatory, deposition, request, or application under Fed.R.Bankr.P. 7026-7037, shall be served within fifteen (15) days after service of the interrogatory, deposition, request or application, unless otherwise ordered by the court. Any such objection shall be specific and the reasons for the objection shall be stated. Any such objection shall not extend the time within which the objecting party must otherwise answer or respond to any discovery matter to which there is no specific objection.
- (c) **Motions to Compel.** After a discovery request is objected to or not timely complied with, and if not otherwise resolved, it is the responsibility of the party initiating discovery to place the matter before the court by a proper motion pursuant to Fed.R.Bankr.P. 7037, to compel an answer, production, designation or inspection. Such motion must be accompanied by a memorandum as required by SC LBR 9014-1.
- (d) **Other Discovery Motions.** A motion for a protective order pursuant to Fed.R.Bankr.P. 7026(c) or Fed.R.Bankr.P. 7037(a)(2), or a motion to compel physical or mental examination pursuant to Fed.R.Bankr.P. 7035, shall be accompanied by a memorandum as required by SC LBR 9014-1.
- (e) **Replies to Discovery Motions.** Replies to discovery motions mentioned in subdivisions (e), (f) and (i) herein shall be filed within ten (10) days after service of the motion and memorandum unless otherwise ordered by the court. Responses, if any, to all other discovery motions also shall be filed within ten (10) days.
- (f) **Compliance with Discovery Orders.** After the court has ruled on a discovery motion, any answer, production, designation, inspection or examination required by the court shall be completed within ten (10) days after the entry of the order of the court, unless otherwise ordered by the court.
- (g) **Failure to Comply with Order.** Should a party fail to comply with an order of the court concerning discovery motions, it is the responsibility of the party objecting to such failure to comply to place the matter before the court by a proper motion for supplementary relief pursuant to Fed.R.Bankr.P. 7037. Such motion must be accompanied by a written memorandum as required by SC LBR 9014-1.
- (h) **Consultation Among Counsel.** Counsel are encouraged to participate in pretrial discovery conferences in order to decrease, in every way possible, the filing of unnecessary discovery motions. No motion concerning discovery matters may be filed until counsel shall have explored with opposing counsel the possibility of resolving the discovery matters in controversy. The court will not consider any motion concerning discovery matters unless the motion is accompanied by a statement of counsel that a good-faith effort has been made between counsel to resolve the discovery matters at issue.
- (i) **Extensions.** Depending upon the facts of the particular case, the court in its discretion may, upon appropriate written motion by a party, allow an extension of time in excess of the time provided by the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, these local rules, or previous court order, within which to respond to or complete discovery or to reply to discovery motions. Any agreement between counsel relating to any extension of time is of no force or effect; only the court, after appropriate motion directed thereto, may grant an extension of time. Unless otherwise specifically provided, such extension will be upon the specific condition that, regardless of what may be divulged by such discovery, it will not in any manner alter the schedule of dates and procedure previously adopted by the court in the particular case.
- (j) **Unnecessary Discovery Motions or Objections.** The presentation to the court of unnecessary discovery motions, and the presentation to another party or non-party of unnecessary discovery requests of any kind,

as well as any unwarranted opposition to proper discovery proceedings, will subject such party to appropriate remedies and sanctions, including the imposition of costs and attorney's fees.

- (k) **Sanctions.** Should any party or the party's attorney fail to comply with any of the provisions of this local rule, or otherwise fail or refuse to meet and confer in good faith in an effort to narrow the areas of disagreement concerning discovery, sanctions provided by Fed.R.Bankr.P. 7037, may be imposed.

Editor's Notes:

This rule has been substantially rewritten in accordance with revisions to Federal Rules of Bankruptcy Procedure dealing with discovery and our local district court rules. The opt-out provisions for pre-trial disclosures and initial interrogatories remain in place.

Amendments abrogating previous paragraphs (a), (b) and (n) made October 1, 2001, as a result of changes to Fed.R.Bankr.P. 7026 (Fed.R.Civ.P. 26).

LOCAL RULE 7067-1: DEPOSITING FUNDS WITH THE COURT

A party which seeks an order directing the clerk to deposit and hold funds in an interest-bearing account, shall do so by motion with a proposed order, which shall be delivered to the clerk, the chief deputy, or the financial administrator, who will review the order for proper form, content and compliance with this local rule prior to its submission to a judge for consideration.

Proposed orders directing the clerk to deposit and hold funds or to invest funds (deposited in the registry of the court pursuant to 28 U.S.C. § 2041) shall include the following:

- (a) a statement of the amount of funds to be invested;
- (b) a statement of the name of the depository approved by the Treasurer of the United States as a depository for such funds;
- (c) the designation of the type of account or investment instrument in which the funds are to be invested;
- (d) the following language:

"The clerk of this court shall deduct the fee provided by 28 U.S.C. § 1930(b) using the method of assessment specified by the Director of the Administrative Office. This fee shall be deducted periodically, either at the time the income is credited to the account, prior to any other distribution, or for investments having a maturity date greater than one year, the fee will be assessed at the time the investment instrument matures;"
- (e) the names and addresses of all parties claiming an interest in the funds;
- (f) a statement that the funds shall be disbursed by the clerk only upon further order of the court; and,
- (g) the following indication for signature by the clerk, chief deputy or financial administrator that it has been reviewed:

"REVIEWED:

By: _____"
Clerk, or Chief Deputy Clerk,
or Financial Administrator

In the event that a depository intended by the court to receive registry funds is not, immediately upon the court's receipt of the registry funds, able to pledge sufficient collateral for receipt of those funds, the clerk may temporarily retain such funds, or direct the party tendering such funds to retain them temporarily until arrangements for their deposit in interest-bearing registry accounts with sufficient collateral are arranged by the court.

Editor's Notes:

No substantive changes were made to this rule.

LOCAL RULE 8006-1: RECORDS AND ISSUES ON APPEAL

In addition to Part VIII of the Federal Rules of Bankruptcy Procedure (Fed.R.Bankr.P. 8001 through 8019), the requirements set forth in “Clerk’s Instruction: Records and Issues on Appeal (CI-8006-1)”,¹ shall apply to an appeal from a judgment, order, or decree of a bankruptcy judge.

Editor’s Notes:

This rule has been shortened by authorizing the clerk to issue “Clerk’s Instruction: Records and Issues on Appeal (CI-8006-1).”

¹ Clerk’s Instructions are available on the court’s Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk’s office.

LOCAL RULE 9001-1: DEFINITIONS AND RULES OF CONSTRUCTION

The definitions of words and phrases in §§ 101, 902 and 1101 of the Code and Fed.R.Bankr.P. 9001 and the rules of construction in § 102 of the Code and Fed.R.Bankr.P. 9001 govern their use in these local rules. In addition, the following words and phrases used in these local rules have the meanings indicated unless the context clearly requires otherwise.

(a) **Definitions.**

- (1) **"Appellate Court"** shall mean the United States District Court for the District of South Carolina exercising its appellate jurisdiction pursuant to 28 U.S.C. § 158.
- (2) **"Application"**. See "Motion". Papers should be captioned "applications" only when the Federal Rules of Bankruptcy Procedure expressly provide that a request for judicial action shall be made by "application".
- (3) **"Bankruptcy Code"** or **"Code"** means the United States Bankruptcy Code (Title 11 U.S.C.), as amended.
- (4) **"Bankruptcy Court"** means the United States Bankruptcy Court for the District of South Carolina.
- (5) **"Bankruptcy Rules"** or **"Fed.R.Bankr.P."** means the Federal Rules of Bankruptcy Procedure.
- (6) **"Business Day"** as used in these local bankruptcy rules shall mean any day other than a Saturday, Sunday, federal holiday or any other day on which the clerk's office is closed.
- (7) **"Case"** means a bankruptcy case commenced by the filing of a petition pursuant to 11 U.S.C. §§ 301, 302, 303 or 304.
- (8) **"Clerk"** or **"Bankruptcy Clerk"** means the clerk of the United States Bankruptcy Court for the District of South Carolina. When the reference is to a different clerk, it will be specified in the text.
- (9) **"Clerk's Instructions"** means written instructions prepared by the clerk's office which give procedural guidelines on specific topics. The instructions are available on the court's Internet Web site at www.scb.uscourts.gov and at the Intake Division of the clerk's office.
- (10) **"Court"** or **"Judge"** means the judicial officer before whom a case or proceeding is pending.
- (11) **"Defendant"** means any party against whom a claim for relief is made by complaint, counterclaim or cross-claim in an adversary proceeding.
- (12) **"Deputy Clerk"** means an employee of the United States Bankruptcy Court for the District of South Carolina appointed by the clerk.
- (13) **"District Court"** means the United States District Court for the District of South Carolina.
- (14) **"Documents"** means all petitions, pleadings, motions, affidavits, declarations, briefs, points and authorities, and all other papers or documents presented for filing or submission; but shall exclude exhibits submitted during a hearing or trial.
- (15) **"Fed.R.Civ.P."** means the Federal Rules of Civil Procedure.
- (16) **"File"** includes variations of the word, such as filing, and means the delivery to, and acceptance by, the clerk, a deputy clerk, the court, or other persons authorized by the court, of a document to be

entered on the docket.

- (17) **“Local Official Form” or “LOF”** means a form required to be used in conjunction with either the South Carolina Local Bankruptcy Rules or a Clerk’s Instruction.
- (18) **“Local Rule” or “SC LBR”** means the South Carolina Local Bankruptcy Rules.
- (19) **“Notice of Meeting of Creditors”** means the “Notice of Chapter __ Bankruptcy Case, Meeting of Creditors, and Deadlines” (Official Form 9).
- (20) **"Passive Notice"** means after appropriate notice and opportunity for hearing (11 U.S.C. § 102(1)). (SC LBR 9014-2)
- (21) **"Plaintiff"** means any party claiming affirmative relief by complaint, counterclaim or cross-claim, in an adversary proceeding.
- (22) **"Proceeding"** includes motions, adversary proceedings, contested matters and other matters presented to the court. It does not include the “Case” as defined above.
- (23) **“Trustee”** includes a debtor in possession in a chapter 11 case.
- (24) **“United States Trustee”** means the United States Trustee for Region 4 and includes an assistant United States trustee and any designee of the United States trustee.

(b) Rules of Construction.

- (1) **Gender; Plural.** Whenever applicable, each gender does include the other gender and the singular does include the plural.
- (2) **Terms Not Otherwise Defined.** Terms used in the Local Bankruptcy Rules that are not herein defined, will have the meanings provided in the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure. Similarly, the Rules of Construction contained in 11 U.S.C. § 102 also apply.
- (3) **References to Rules and Statutes.** Any reference in the local rules to a statute or a rule shall include any amendments or successors thereto.

Editor’s Notes:

This rule is new. It contains material previously found in SC LBR 1001-1. The definitions and rules of construction were relocated to conform with the new numbering requirements. Some definitions were eliminated as unnecessary.

LOCAL RULE 9006-1: EXTENSION OF TIME TO RESPOND TO PLEADINGS

- (a) **General Rule.** Except as otherwise provided in this local rule, a party seeking an extension of time to respond to a pleading in an adversary proceeding or in a contested matter must proceed by motion.
- (b) **Extensions of Time for Filing of Responsive Pleadings in Adversary Proceedings.** A party which has asserted a claim against another party in an original or amended pleading may grant to that party, without court approval, one extension of time to respond to the pleading. The extension may not exceed the lesser of thirty (30) days or the number of days within which the response was originally due. All such extensions must be in writing and in the form of a certification of extension, properly captioned in accordance with Fed.R.Bankr.P. 9004 and signed by a party to the extension agreement. A copy of the certification of extension must be filed with the court within five (5) business days after the expiration of the original deadline. If no answer, reply, or certification of extension is timely filed, the clerk shall forthwith enter the default pursuant to Fed.R.Bankr.P. 7055(a).
- (c) **Extensions of Time for Filing of Responses in Contested Matters.** No extension of time to respond in a contested matter may be granted by any party without the written approval of the court. Contested matters may be removed from the hearings calendar if objections/responses are not timely filed.
- (d) No extensions of time beyond that provided herein are permitted without an order of the court entered prior to the expiration of the time set out in the certificate of extension.

Editor's Notes:

This rule has been amended to provide that a party to an adversary proceeding may grant to another party one limited automatic extension to respond to a pleading without court approval. No such extensions may be granted in contested matters.

LOCAL RULE 9010-1: PRACTICE BEFORE THE COURT

This local rule shall be construed in conjunction with Local Rules 83.I and 83.X of the United States District Court for the District of South Carolina.

Attorneys admitted to practice under the following classes shall, prior to appearing in a matter or filing a paper with the court, possess a working knowledge of the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, the local rules, and the appropriate local rules of the United States District Court.

(a) Classes of Attorneys Admitted to Practice.

- (1) An attorney who is admitted to practice in the United States District Court for the District of South Carolina is considered admitted to practice in this court. Proof of such admission shall be reflected by the use of the attorney's United States District Court identification number on all pleadings, documents, or other papers filed with this court.
- (2) A student enrolled in clinic programs at the University of South Carolina School of Law is admitted to practice as long as the student is enrolled in such programs. All pleadings submitted by a student must be signed by the student and countersigned by the student's supervising attorney-instructor. In all court appearances, the student must be accompanied by the supervising attorney-instructor. The supervising attorney-instructor shall assume personal professional responsibility for the student's work and for supervising the quality of the work.
- (3) An attorney, not otherwise admitted to practice in this court, may move for admission to practice in this court *pro hac vice* as provided in Local Rules 83.I and 83.X of the United States District Court.

(b) Pro Se Practice. In any petition for relief, motion, adversary proceeding, or other document (except proofs of claim or interests), or objections or responses thereto:

- (1) An individual may represent himself or herself.
- (2) An individual may represent an unincorporated business if that individual is the sole proprietor of that business.
- (3) All partnerships, corporations and other business entities must be represented by a lawyer duly admitted to practice as specified in paragraph (a) above.

(c) Additional Requirements of Those Admitted to Practice. All pleadings, documents, or other papers filed by those admitted to practice or appearing *pro se* shall reflect, beneath the signature line, in the following order and typed or printed legibly: the individual's name, the office address and telephone number, facsimile number and, in the case of an attorney, the attorney's United States District Court identification number.

An attorney who changes his/her mailing address shall notify the court, in writing, of the new address, the effective date of the address change and whether or not the change effects the representation of any party for whom the attorney has appeared as attorney of record (see also (d) below).

(d) Extent of an Attorney's Duty to Represent. Except as may be provided in an attorney's written agreement with the client concerning appeals and adversary proceedings, any attorney who files documents for or on behalf of a debtor or party in interest shall remain the responsible attorney of record for all purposes including the representation of the client at all hearings and in all matters that arise in conjunction with the case. Upon motion which details the reasons for the request for withdrawal and which details the portion of any retainer which has been earned, and after notice to the debtor, all creditors and parties in interest and a hearing, the court may permit an attorney to withdraw as attorney of record.

(e) Substitution of Counsel. In the event of an agreement among the client, the original attorney, and a substitute

attorney that the original attorney will no longer represent the client and the substitute attorney will do so, a consent order, signed by each attorney and the client, may be submitted for the court's consideration without notice and a hearing. If an order of substitution is issued, the substituted attorney shall give notice thereof to parties in interest.

In the event an attorney of record leaves a law firm, and the representation of a client is to remain with the law firm, notice which specifies the case by name and number and identifies the new attorney of record must be provided to the court and the client. Such notice may be in the form of a letter signed by both the previous and the new attorney.

Editor's Notes:

Paragraph (d) of this rule was amended October 1, 2001. The duty to represent includes the representation of the client at all hearings and in all matters that arise in conjunction with the case. The duty to represent also includes adversary proceedings and appeals unless excluded by agreement, and requires notice if an attorney leaves a law firm and the firm retains the case.

LOCAL RULE 9014-1: MOTIONS PRACTICE GENERALLY

- (a) **Applicability.** This local rule applies to all motions for which the “passive notice” procedure of SC LBR 9014-2 is not approved.¹
- (b) **General Requirements for Motions.**
- (1) **Memorandum and Proposed Order.** A motion permitted by the bankruptcy rules shall be filed with a proposed order and an accompanying supporting memorandum of authorities which shall be filed and made part of the public record. Unless a memorandum is submitted or contained within the motion, the court may refuse to consider the motion.
 - (2) **Service of Motion and Memorandum.** The moving party shall serve copies of the motion, memorandum, and proposed order on all appropriate parties and shall file an affidavit or certificate of such service with the clerk. Unless otherwise directed by the court, no hearing will be scheduled on a motion until an affidavit or certificate of service is filed.
 - (3) **Service Before Filing.** If a motion is served upon the opposing attorney and/or parties in interest before it is filed with the court, the motion must be filed with the court within one (1) business day after it is served.
- (c) **Response or Objection to Motions.** Responses or Objections to Motions must be in the form prescribed by, and filed and served in accordance with, SC LBR 9014-4.
- (d) **Contents of Memorandum of Authorities.** A memorandum of authorities shall contain:
- (1) A concise statement of the facts that pertain to the matter before the court for ruling;
 - (2) A brief argument relating to the matter before the court for ruling with citations to applicable authorities;
 - (3) Copies of any unpublished decisions or decisions published in any specialized reporting services cited in the memorandum; and
 - (4) Where the memorandum opposes a motion for summary judgment, a short and concise statement of the genuine issues of material facts.
- (e) **Motions for Emergency Hearing.** A motion for an emergency hearing or a hearing to be held on less than fifteen (15) days notice must be accompanied by a certification of necessity for emergency hearing (*see* Local Official Form 9014-1).
- (f) **Noncompliance with Rule.** A party failing to comply with this rule may be denied the opportunity to appear and be heard in the hearing before the court.

¹ In this local bankruptcy rule the word "motion" shall mean any request for an order of this court. Excepted from the requirement to file a memorandum under this Local bankruptcy rule are: (1) Motion by debtor to convert unless the case has been previously converted; (2) Motion by chapter 7, 12 and 13 debtor to dismiss case; (3) Motion by chapter 12 and 13 trustees to dismiss case; (4) Motion to avoid lien (see SC LBR 4003-1 and 3015-1); (5) Motion to value security (see SC LBR 3012-1 and 3015-1); (6) Motion for relief from the automatic stay (see SC LBR 4001-1); (7) Application to pay filing fees in installments; (8) Application for compensation or reimbursement; (9) Application to employ professional persons; (10) Application for entry of final decree on consummation of a chapter 11 plan; (11) Application to shorten period of notice; (12) Motion to sell (see SC LBR 6004-1); (13) Motion to Abandon by Debtor or Trustee (see SC LBR 6007-1); (14) Motion to Examine (see Fed.R.Bankr.P. 2004); (15) Motion of Intent to Collect Child Support (see SC LBR 4001-3). The applicable requirements for service are not excepted (see Fed.R.Bankr.P. 9014, 7005).

Editor's Notes:

A hearing requested on less than fifteen (15) days notice should be considered to be an emergency hearing under this rule unless otherwise provided by the Bankruptcy Code and Rules.

LOCAL RULE 9014-2: MOTIONS ON PASSIVE NOTICE

- (a) **Applicability.** This rule applies only to motions approved for "passive" notice procedure.
- (b) **General Requirements.** The court has approved certain motions and applications which may be noticed by "passive" notice giving parties notice and an opportunity for a hearing. A list of the motions and applications approved for this procedure, which may be amended from time to time, is Local Official Form 9014-2(b) to be utilized in conjunction with "Clerk's Instruction: Motions (Passive Notice) (CI-9014-2)".¹ These instructions are available from the Intake Division of the clerk's office and the court's Internet Web site at www.scb.uscourts.gov. Only the motions and applications on the list may be noticed using this procedure. A party who uses a passive notice for any motion or application not on the court-approved list may be required to re-serve a notice of hearing.
- (c) **Form of Notice.** The generic form of passive notice is designated by the court's Local Official Form 9014-2(a), see "Clerk's Instruction: Motions (Passive Notice)(CI-9014-2)."²

Editor's Notes:

This rule is substantially changed. The Clerk's Instruction to this rule provides the details of this procedure as well as the forms which must be used.

¹ Clerk's Instructions are available on the court's Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk's office.

² *Ibid.*

LOCAL RULE 9014-3: HEARINGS ON CONTESTED MATTERS

(a) **Applicability.** This rule applies only to hearings on contested matters as described in Fed.R.Bankr.P. 9014.

(b) **Continuance of a Hearing**

- (1) **Continuances Generally.** A hearing will not be continued except as set forth in this local rule. Requests for continuances will not be granted unless good cause is shown. Telephone requests for continuance will not be considered by the court. No hearing will be removed from the court's calendar on a request for a continuance prior to the entry of an order granting the continuance. Unless a continuance is granted, the parties shall appear before the court and be ready to proceed at the time scheduled for the hearing. Noncompliance may result in the court's imposing appropriate sanctions, or dismissing the motion.
- (2) **Continuance by Consent.** Not later than three (3) business days before the scheduled date for a hearing, the parties to the matter may file with the court a proposed order of continuance which includes a statement of the cause for the requested continuance. The proposed order must bear the consent of the movant and of each party that has responded or objected to the matter set for hearing. The court will advise the parties of the disposition of the request for the continuance before the scheduled date for the trial or hearing.
- (3) **Continuance by Motion.** Absent consent as set forth above, a party seeking a continuance of a hearing must file a motion seeking such a continuance. The motion must be accompanied by an affidavit of the movant or its attorney setting forth in detail the cause for the requested continuance, and must be filed in the office of the clerk and served on each party that has responded or objected to the motion scheduled for hearing at least five (5) business days before the date of the hearing; provided, however, that if the time for parties to object to the motion has not expired, the motion must be served on all parties which have received notice of the hearing. Motions for continuances made after that time or at the trial or hearing will only be granted upon a showing of exigent or emergency situations. If a motion for continuance is granted, the court may require the moving party to notify each party which has received notice of the hearing of the continuance and of the continued date and time.

(c) **Notice of Settlement Contested Matters.** If a contested matter scheduled for hearing is settled, parties to the proceeding or matter may file a written notice of the settlement not fewer than one (1) business day before the scheduled date of the hearing. The notice of settlement must be in form of:

- (1) a proposed order, consented to by each party who has objected or responded to the matter; or
- (2) a certification (Local Official Form 7016-1) of a party to the matter setting forth with specificity the terms of the settlement and stating that the movant and each party which has timely responded or objected to the matter has been notified of, and agreed to, the settlement.

The party filing the notice of settlement shall simultaneously give telephonic notice of the settlement to the appropriate courtroom deputy clerk.

If the notice is in the form of a certification, the party filing the certification shall submit a proposed order consented to by each party which has responded or objected to the matter. The order must be submitted to the court within fifteen (15) days after the court has received the notice of settlement; provided, however, that if the consent of more than two parties is required, the proposed order must be submitted within thirty (30) days unless otherwise ordered by the court. If the order is not submitted within these time frames, the terms set forth in the certification will become the order of the court, which will not be vacated or modified by later order except upon a showing of manifest injustice.

Absent notification as set forth in the preceding paragraphs, an attorney for one of the parties may appear before the court at the time scheduled for the hearing and present the court with a proposed consent order of settlement. In lieu of a consent order, the attorney may read into the record the material terms of the settlement and that record shall become the order of the court unless the court is presented with a consent order as set

forth above.

- (d) **Notice of Withdrawal of a Matter Set for Hearing.** Notice of the withdrawal of a contested matter set for hearing must be provided to the court in accordance with Fed.R.Bankr.P. 7041.

Editor's Notes:

The rule has been substantially rewritten.

LOCAL RULE 9014-4: WRITTEN OBJECTIONS

When any order, plan, notice, statute, rule, pleading or any other document, (any one of which is hereinafter referred to as the "document") requires parties in interest which oppose the relief sought in the document to make a written objection, return, or response, the objection must:

- (a) Be written and properly captioned in accordance with Fed.R.Bankr.P. 9004;
- (b) Set forth with particularity the reasons for opposition, citing applicable statutes, rules and controlling case law; and,
- (c) Be served on all parties in interest, and filed, along with a certificate of service, not later than five (5) business days before any hearing on the document unless a different time is prescribed by the court,¹ or by the local rules;² or, if no hearing is set, not later than fifteen (15) days after service of the document or not later than the deadline given in the document giving notice of the proposed action.

Any objecting party failing to comply with this local rule may be denied the opportunity to appear and to be heard in the hearing before the court.

Editors Notes:

SC LBR 9014-1 through 9014-4 set forth in detail procedures to be followed in connection with contested matters. The material previously included in SC LBR 9013-1 has been incorporated into these rules.

¹For those matters on the Passive Notice List (SC LBR 9014-2) the time for objections specified in the notice governs.

²Exceptions to this local bankruptcy rule are: (1) objections to confirmation of chapter 13 plans and related motions which, the requirements for which are set forth in SC LBR 3015-1; (2) objections by a chapter 13 trustee to a chapter 13 plan since such objections may, but need not, be in writing.

LOCAL RULE 9017-1: CUSTODY OF EXHIBITS

All models, diagrams, photographs, depositions and other material admitted in evidence as exhibits in any case or proceeding shall be placed in the custody of the clerk, unless otherwise ordered by the court. These items shall be claimed by the party offering such evidence within thirty (30) days after the expiration of the time for appeal from final judgment, unless otherwise directed by the court. At the time of removal, a detailed record of the disposition of the items shall be filed in the case or proceeding file. If the party who offered the items in evidence fails to claim items as provided herein, the clerk may write the attorney of record, or if none, the party on whose behalf the items were admitted in evidence, calling attention to the provision of this local rule. If after the mailing of such notice the items have not been claimed and removed within thirty (30) days, they may be destroyed by the clerk. If the items are documents which fit into case files, they may be retained rather than destroyed.

Editor's Notes:

No substantive changes were made to this rule.

LOCAL RULE 9019 -1: COMPROMISE AND SETTLEMENT

Notice of settlement or compromise which is required to be served upon parties, must be filed and served within ten (10) days after the report of settlement to the court using the passive notice procedure prescribed by SC LBR 9014-2 and the accompanying “Clerk’s Instruction: Motions (Passive Notice) (CI-9014-2)”,¹ and must also include the appropriate Local Official Form 9019-1, and must be served on all creditors and parties in interest unless otherwise ordered by the court. The Notice of Settlement must: (1) be signed by the attorneys for the settling parties; (2) be accompanied by a consent order containing their signatures; or (3) be accompanied by a certificate of the filing party that the terms set out in the Notice of Settlement are complete and have been agreed upon by the parties. If the Notice of Settlement is not timely filed and served and the parties have failed to present reasons in writing why it has not been timely served and filed, the court may enter an appropriate order, which may grant judgment against the party responsible for the delay.

Editors Notes:

This rule has been amended to provide that a Notice of Settlement may be filed by one party together with a certificate that the Notice fully sets forth the terms of the parties’ settlement. The rule also now provides that the court may take appropriate steps to enforce the rule if the parties do not timely file and serve the Notice.

¹ Clerk’s Instructions are available on the court’s Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk’s office.

LOCAL RULE 9029-1: OPERATING ORDERS AND AMENDMENTS TO THE LOCAL BANKRUPTCY RULES

Should any matter of practice or procedure require the attention of the court prior to amendment of these rules, the court may enter an operating order which will have the same force and effect as the local rules. The clerk shall maintain a file of such operating orders entered by the court and shall enter the operating orders on an accompanying docket. Operating orders shall be posted for public inspection, in the office of the clerk and on the court's Internet Web site at www.scb.uscourts.gov. It is the intention of the court to review operating orders and to consider their incorporation, by way of formal amendment, into the local rules when the rules are amended.

Technical corrections to these rules may be made by the court at any time and notice of such will be provided on the court's Internet Web site at www.scb.uscourts.gov.

Editor's Notes:

This rule is new. It contains material that was previously included in SC LBR 1001-1. The material was moved to comply with the uniform numbering requirements of the Judicial Conference. To increase availability of the operating orders, they will now be posted on the court's Internet Web site at www.scb.uscourts.gov.

These local rules will be periodically reviewed by the court and will be amended when appropriate.

RULE 9036-1: NOTICE BY ELECTRONIC TRANSMISSION

The court may provide notice by electronic transmission if an entity entitled to receive the bankruptcy notice requests in writing that the notice be transmitted electronically. This written request requirement is fulfilled through an *Electronic Noticing Agreement* (and *Evidence of Authority Forms*, if applicable).

The terms and procedures for electronic noticing are detailed in the *Electronic Bankruptcy Noticing Agreement* which, upon execution by the entity requesting electronic notice and the clerk of this court, will be provided by the clerk to the Bankruptcy Noticing Center which will serve the electronic notice.

The clerk may, in her discretion, delegate to the Bankruptcy Noticing Center the authority to enter into and monitor *Electronic Noticing Agreements* with entities who are acting solely on their own behalf or, in an instance where an entity is acting as agent for others, those agreements which are executed by both the party and the agent.

Editor's Notes:

This rule was added to include Operating Order 00-2, entered by the court on July 10, 2000.

LOCAL RULE 9072-1: PROPOSED ORDERS

Within fifteen (15) days after being directed by the court to submit a proposed order, or within such other times as the court may fix, the designated party, unless good cause is shown in writing, shall deliver the proposed order to the clerk. If the consent of more than one other party is required, the proposed order shall be delivered within thirty (30) days after the court's direction is issued.

Failure to deliver the proposed order by the deadline, or to show cause in writing why it cannot be so submitted may result in appropriate sanctions after notice and an opportunity for hearing.

Editor's Notes:

This rule was modified to provide that the court may enter appropriate sanctions against a non-complying party. The time periods were increased from ten (10) and twenty (20) days to fifteen (15) and thirty (30) days.

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LOCAL OFFICIAL FORM 1002-1 TO SC LBR 1002-1

United States Bankruptcy Court for the District of South Carolina

NOTICE TO INDIVIDUAL CONSUMER DEBTOR

The purpose of this notice is to acquaint you with the four chapters of the United States Bankruptcy Code (Code) under which you may file a bankruptcy petition. The bankruptcy law is complicated and not easily described. Therefore, you should seek the advice of an attorney to learn of your rights and responsibilities under the law should you decide to file a petition with the court. Neither the judges nor the court's employees may provide you with legal advice.

Chapter 7: Liquidation (\$155.00 filing fee and \$30.00 administrative fee and \$15.00 trustee surcharge fee = \$200.00 total fee)

Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts. Under chapter 7, a trustee takes possession of all your property. You may claim certain of your property as exempt under governing federal and state law. The trustee then liquidates the property and uses the proceeds to pay your creditors according to priorities set by the Code.

The purpose of filing a chapter 7 case is to obtain a discharge of your existing debts. If, however, you are found to have committed certain kinds of improper conduct described in the Code, your discharge may be denied by the court, and the purpose for which you filed the bankruptcy petition will be defeated. Even if you receive a discharge, there are some debts that are not discharged under the law. Therefore, you may still be responsible for such debts including, but not limited to, certain taxes and student loans, alimony and child support, criminal restitution, and debts for death or personal injury caused by driving while intoxicated from alcohol or drugs.

Under certain circumstances you may keep property that you have purchased subject to valid security interest. Your attorney can explain the options that are available to you.

Chapter 11: Reorganization (\$800.00 filing fee and \$30.00 administrative fee = \$830.00 total fee)

Chapter 11 is designed primarily for the reorganization of a business but is also available to consumer debtors. Its provisions are complex and any decision to file a chapter 11 should be made in consultation with an attorney.

Chapter 12: Family Farmer (\$200.00 filing fee and \$30.00 administrative fee = \$230.00 total fee)

Chapter 12 is designed to permit family farmers to repay their debts over a period of time from future earnings and is in many ways similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family owned farm.

Chapter 13: Repayment of All or Part of the Debts of an Individual (\$155.00 filing fee and \$30.00 administrative fee = \$185.00 total fee)

Chapter 13 is designed for individuals with regular income who are temporarily unable to pay their debts but would like to pay them in installments over a period of time. You are only eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Code.

Under chapter 13, you must file a plan with the court to repay your creditors all or part of the money that you owe them, using future earnings. Usually the period allowed by the court to repay debts is three years, but not more than five years. Your plan must be approved by the court before it can take effect. Under chapter 13, unlike chapter 7, you may keep your property, both exempt and nonexempt, as long as you continue to make payments according to the plan.

After completion of payments under your plan, your debts are discharged except alimony and support payments, student loans, certain debts including criminal fines and restitution and debts for death or personal injury caused by driving while intoxicated from alcohol or drugs, and long term secured obligations.

ACKNOWLEDGMENT

CASE NO _____

I hereby certify that I have read this notice.

Date: _____

Debtor

Joint Debtor (if applicable)

INSTRUCTIONS: If the debtor is an individual, a copy of this notice personally signed by the debtor must accompany any bankruptcy petition filed with the

clerk. If filed by joint debtors, the notice must be personally signed by each.

LOCAL OFFICIAL FORM 1006-1 TO SC LBR 1006-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:) CASE NO: _____
) CHAPTER: _____
)
) APPLICATION TO PAY FILING FEE,
) ADMINISTRATIVE FEE, AND TRUSTEE SURCHARGE
) FEE IN INSTALLMENTS

DEBTOR.)

In accordance with Federal Rule of Bankruptcy Procedure 1006, application is made for permission to pay the filing fee, administrative fee, and the trustee surcharge fee on the following terms:

\$_____ with the filing of the petition, and the balance of

\$_____ in three (3) installments, as follows:

\$_____ on or before _____

\$_____ on or before _____

\$_____ on or before _____

I certify that I have not paid any money or transferred any property to an attorney or any other person for services in connection with this case or in connection with any other pending bankruptcy case and that I will not make any payment or transfer any property for services in connection with the case until the filing fee, administrative fee, and the trustee surcharge fee is paid in full.

I certify that I am unable to pay the filing fee, administrative fee, and the trustee surcharge fee except in installments because

_____.

I understand that this case may be dismissed without further notice pursuant to South Carolina Local Bankruptcy Rule 1006-1 if an installment payment is not received by the due date unless I file a request for a hearing on dismissal prior to the due date.

Date: _____, _____

Signature of Debtor

Signature of Debtor

Signature of Attorney

Typed/Printed Name/Address/Telephone

District Court I.D. Number

LOCAL OFFICIAL FORM 1007-1(a) TO SC LBR 1007-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

)
)
)
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REQUEST FOR WAIVER

DEBTOR.

The debtor hereby requests that the court waive the requirement that the mailing matrix be submitted on a computer disk as required by South Carolina Local Bankruptcy Rule 1007-1. Because of financial constraints and the inability of the debtor or debtor's counsel (if applicable) to access the equipment necessary to comply with this requirement, the debtor requests that the court accept the matrix in the format set forth in the "Clerk's Instruction: Submission of the Lists of Creditors on Hard Copy in a Scannable Format (CI-1007-1(b))".

Date: _____, _____

Signature of Debtor

Signature of Debtor

Signature of Attorney

Typed/Printed Name/Address/Telephone

District Court I.D. Number

LOCAL OFFICIAL FORM 1007-1(b) TO SC LBR 1007-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

)
)
)
)
)
)
)
)

CERTIFICATION VERIFYING
CREDITOR MATRIX

DEBTOR.

The above named debtor, or attorney for the debtor if applicable, hereby certifies pursuant to South Carolina Local Bankruptcy Rule 1007-1 that the master mailing list of creditors submitted either on computer diskette or by a typed hard copy in a scannable format has been compared to, and contains identical information to, the debtor's schedules, statements and lists which are being filed at this time or as they currently exist in draft form.

Master mailing list of creditors submitted via:

- (a) _____ computer diskette
- (b) _____ scannable hard copy
(number of sheets submitted _____)

Date: _____, _____

Signature of Debtor

Signature of Debtor

Signature of Attorney

Typed/Printed Name/Address/Telephone

District Court I.D. Number

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

5. Cash and Other Liquid Assets (Total value not to exceed \$1,000 per debtor. This exemption is available only to a debtor who did not make a claim under item 1 of this form.)

A. Cash \$ _____

B. Other Liquid Assets

- 1. Deposits _____
- 2. Securities _____
- 3. Notes _____
- 4. Drafts _____
- 5. Unpaid earnings _____
- 6. Accrued vacation pay _____
- 7. Refund _____
- 8. Prepayments _____
- 9. Income tax refunds _____
- 10. Other receivables _____

TOTAL \$ _____

6. Tools of Trade (Total net value not to exceed \$750 for each debtor.)

<u>Description</u>	<u>Market Value</u>	<u>Lien Holder</u>	<u>Amount of Lien</u>	<u>Net Value</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Net Value \$ _____

7. Unmatured Life Insurance Contract

Name of Insurance Company: _____

Policy No: _____ N a m e o f I n s u r e d : _____

Name of Insurance Company: _____

Policy No: _____ Name of Insured: _____

8. Dividend, Interest/Loan Value of Unmatured Life Insurance Contract

(Debtor's interest not to exceed \$4,000 for each debtor, also see Section 12(D) and (E).)

Name of Insurance Company: _____

Policy No: _____ N a m e o f I n s u r e d : _____

Value Claimed: \$ _____ Overage: \$ _____

Name of Insurance Company: _____

Policy No: _____ Name of Insured: _____

Value Claimed: \$ _____ Overage: \$ _____

9. Professionally Prescribed Health Aids (No limit on value or number of items.)

Description:

10. Debtor's Right to Receive the Following Benefits: (Check applicable benefits and attach explanation.)

- _____ A. A social security benefit, unemployment compensation, or a local public assistance benefit.
- _____ B. A veteran's benefit.
- _____ C. A disability, illness or unemployment benefit (except for a levy or execution of judgments for criminal restitution or fines. See S.C. Code Ann. § 15-41-33).
- _____ D. Alimony, support or separate maintenance.
- _____ E. A payment under a stock bonus, pension, profit sharing annuity, or similar plan or contract on account of illness, disability, death, age or length of service unless,
- (i) such plan or contract was established by or under the auspices of an insider who employed the debtor at the time the debtor's rights under such plan or contract arose;
- (ii) such payment is on account of age or length of service; and
- (iii) such plan or contract does not qualify under §§ 401(a), 403(a), 403(b), 408 or 409 of the Internal Revenue Code of 1954 [26 U.S.C. §§ 401(a), 403(a), 403(b), 408 or 409.]

11. Debtor's Right to Receive, or Property that is Traceable to:
(Check applicable benefits and attach explanation.)

- _____ A. An award under a crime victim reparation law.
- _____ B. A payment on account of the bodily injury of the debtor or of the wrongful death or bodily injury of another individual of whom the debtor was or is a dependent.
- _____ C. A payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

12. Other Exemptions Under South Carolina Law: (Check the applicable exemptions.)

- _____ A. Fraternal benefit association benefits under § 38-37-870.
- _____ B. The right to an annuity or a retirement allowance or to the return of contributions, an annuity or retirement allowance itself, any optional benefit or other right accrued or accruing from the South Carolina Retirement System (§ 9-1-1680), the Retirement System for Judges and Solicitors (§ 9-8-190), the Retirement System for the General Assembly (§ 9-9-180), the Police Officers Retirement System (§ 9-11-270), or any private retirement system operated by a municipality as provided for under § 9-1-1680. (Please specify which statute applies _____.)

- _____ C. Any pension fund either before or after distribution under Firemen's Pension Funds held by any municipality (§ 9-13-230).
- _____ D. All proceeds and cash surrender value from an individual life insurance policy which is for the benefit of the insured's spouse, children or dependents under § 38-63-40 (provided the policy was not purchased within two years of the filing of bankruptcy).
- _____ E. All proceeds of group life insurance policies as provided by § 38-63-40(C).
- _____ F. All benefits from accidental disability insurance contracts, § 38-64-40(D).
- _____ G. \$50,000 in cash surrender value or proceeds from a group life insurance policy which is for the benefit of the insured's spouse, children or dependents, § 38-65-90.
- _____ H. Worker's compensation, § 42-9-360.
- _____ I. Public aid and assistance, § 43-5-190.
- _____ J. Crime victim's compensation, § 16-3-1300.
- _____ K. Partnership property, § 33-41-720.
- _____ L. Other state exemptions: (List each item with the statutory basis for the exemption.)

13. The Federal Exemptions (Other than those under 11 U.S.C. § 522(d)):
(Check applicable exemption.)

- _____ A. Disability or death compensation for government employees, 5 U.S.C. § 8130.
- _____ B. Civil service retirement annuity, 5 U.S.C. § 729, 2265, 8346..
- _____ C. Deposits of savings of members of the U.S. Armed Services while on duty outside the U.S., 10 U.S.C. § 1035.
- _____ D. Armed services retirement or retainer pay annuity, 10 U.S.C. § 1440.
- _____ E. Military survivor annuity, 10 U.S.C. § 1450.
- _____ F. Foreign service retirement and disability, 22 U.S.C. § 1104, 4060.
- _____ G. Certain debts of Klamath Tribe Indians, 25 U.S.C. § 543, 545.
- _____ H. Annuities for survivors of judicial officials, 28 U.S.C. § 376.
- _____ I. ERISA qualified plans, 29 U.S.C. § 1056.
- _____ J. Pensions of surviving spouses of lighthouse service personnel, 33 U.S.C. § 775.
- _____ K. Longshoremen's and harbor worker's compensation and benefits, 33 U.S.C. § 916.
- _____ L. Pensions of persons on the Medal of Honor roll, 38 U.S.C. § 1562, 3101.

- _____ M. Benefits from Servicemen's or Veteran's Group Life Insurance, 38 U.S.C. § 1970(g).
- _____ N. Veteran's benefits, 38 U.S.C. § 5301, 45 U.S.C. § 352(E).
- _____ O. Social security paid or payable, 42 U.S.C. § 407.
- _____ P. War risk hazard compensation benefits, 42 U.S.C. § 1717.
- _____ Q. Federal homestead lands on debts contracted before issuance of the patent, 43 U.S.C. § 175.
- _____ R. Railroad Retirement Act annuities, pensions, and supplemental annuities, 45 U.S.C. § 228, 231(m).
- _____ S. Railroad workers unemployment compensation, 45 U.S.C. § 352(e).
- _____ T. Wages of fishermen, seamen and apprentices, 46 U.S.C. § 601.
- _____ U. The clothing of a seaman, 46 U.S.C. § 11110.
- _____ V. Pensions of Spouses of CIA employees, 50 U.S.C. § 403.
- _____ W. CIA retirement, 50 U.S.C. § 2094.
- _____ V. Other federal exemptions: (List each item with the statutory basis for each exemption.)

 Debtor's Signature

Date: _____, _____

LOCAL OFFICIAL FORM 2082-1 TO SC LBR 2082-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER 12 PLAN

DEBTOR.

The debtor certifies that:

- (1) All motions to establish the value of collateral have been filed or are filed contemporaneously herewith.
- (2) All motions to avoid liens have been filed or are filed contemporaneously herewith.
- (3) All fees, charges and amounts required to be paid before confirmation pursuant to chapter 12 of Title 28 of the United States Code have been paid.

FUNDING OF PLAN

(INSTRUCTION: INCLUDE THE APPLICABLE FUNDING LANGUAGE)

The debtor hereby submits his/her future income in the amount of _____ per month for a period of _____ beginning _____.

The debtor hereby submits his/her future income in the amount of _____ per quarter for _____ beginning _____.

The debtor hereby submits his/her future income in the amount of _____ per year for a period of _____ years. Annual payments are to begin on _____ and on _____ each year for a period of _____ years.

After deduction of ten (10%) percent from the above amount, to be applied towards administrative expenses, the trustee shall make disbursements as follows:

- (1) To the attorney's fees of the debtor in an amount not to exceed _____, after approval by the court, at the rate of ten (10%) percent of the gross payment, until paid in full. This percentage may be reduced or increased by the trustee as necessary.
- (2) Payments to secured creditors, as follows: [INSTRUCTION: THE LANGUAGE SET FORTH IS TO BE REPEATED FOR EACH SECURED CREDITOR AND FOR EACH CLASS OF COLLATERAL HELD BY A SECURED CREDITOR.]

Name of Creditor: _____

Claim No: _____ Claim Amount: _____

Collateral: _____

The court established the value of this creditor's collateral as \$ _____ by order dated _____.

or

Motions to value collateral are filed contemporaneously herewith.

or

This creditor is wholly secured in the amount of _____ as of the effective date of confirmation.

The unsecured portion of this creditor's claim is \$_____.

This creditor is to be paid \$_____ per _____ for a period of _____ which includes interest at _____% per annum.

or

The collateral held by this creditor is hereby surrendered to it. No payment will be made to this creditor.

or

Payments to this creditor shall be based on any unsecured deficiency claim that may be filed.

Other provisions for this creditor: _____

- (3) Subsequent to the above, dividends to priority creditors, including tax claims, will be paid on a pro-rata basis until paid in full. These are as follows: _____ [INSTRUCTION: THE FOLLOWING SHOULD BE COMPLETED FOR EACH PRIORITY CREDITOR.]

Name: _____

Claim No: _____ Claim Amount: _____

Payment Amount: _____ (monthly, quarterly or annually)

This creditor shall be paid no interest on its claim.

or

This creditor shall be paid interest at _____% per annum on its claim.

- (4) Subsequent to the above, unsecured creditors will be paid on a pro-rata basis.

- (5) The following leases or executory contracts will be treated as follows:

Upon confirmation of the plan, property of the estate will remain property of the estate, but title to the property shall revert in the debtor. Unless the plan otherwise provides, secured creditors shall retain their liens upon their collateral until the allowed amounts of their claims are paid in full.

The automatic stay provisions of 11 U.S.C. § 362(a) shall remain in effect until the case is closed.

The effective date of confirmation is the date upon which the order of confirmation becomes final.

Date: _____, _____

Signature of Debtor

Signature of Debtor

Signature of Attorney

Typed/Printed Name/Address

District Court I.D. Number

LOCAL OFFICIAL FORM 3011-1(a) TO SC LBR 3011-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

INDIVIDUAL IDENTIFICATION
FORM FOR UNCLAIMED
DIVIDENDS

DEBTOR

I, _____, hereby state that I am a creditor/debtor in the above-named case and request payment of my unclaimed dividend/refund check.

Name _____

Current Phone No. _____

Social Security No. _____

Previous Mailing Address _____

Current Mailing Address _____

Driver's License No. _____

Signature of Creditor/Debtor

In order to ensure payment to the proper party, please fill out the identification portion of this form and mail together with a Motion for Payment of Unclaimed Dividends to:

United States Bankruptcy Court
Attn: Financial Administrator
PO Box 1448
Columbia, SC 29202

Subscribed and sworn to before me in _____ (City/Town)
_____ (State) This _____ day of _____, _____.

Notary Public
My Commission Expires: _____ (Seal)

LOCAL OFFICIAL FORM 3011-1(b) TO SC LBR 3011-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

CORPORATION/BUSINESS
IDENTIFICATION FORM FOR
UNCLAIMED DIVIDENDS

DEBTOR

I, _____, hereby state that I am _____, the _____, (Title), of
_____, (Business Name), and am authorized to request payment of the above dividend.

Current Phone No. _____

Tax Identification No. _____

Previous Mailing Address _____

Current Mailing Address _____

Signature and Corporate Seal Required*

*If corporate seal is not affixed or available, then appropriate documentation is required which indicates that the person signing the motion is authorized to do so.

In order to ensure payment to the proper party, please fill out the identification portion of this form and mail together with a Motion for Payment of Unclaimed Dividend to:

United States Bankruptcy Court
Attn: Financial Administrator
PO Box 1448
Columbia, SC 29202

Subscribed and sworn to before me in _____ (City/Town)
_____ (State) This _____ day of _____, _____.

(Seal)

Notary Public

My Commission Expires: _____

LOCAL OFFICIAL FORM 3011-1(c) TO SC LBR 3011-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

MOTION FOR PAYMENT
OF UNCLAIMED DIVIDENDS

DEBTOR

NOW APPEARS the movant, _____, (name), of _____ (address), _____
(phone number) and states that on _____, (date) _____ (name) became entitled to receive
\$ _____ as a distribution in the above-named case, and now appears on the records of this court as the owner of said funds.
The amount requested is being held in the United States Treasury as unclaimed funds pursuant to 11 U.S.C. § 347(a). The reason that
the original disbursement was not presented for payment was because _____

(specifically state reason and include brief history of creditor/claimant from
filing of claim to present).

The movant represents that he/she/it is entitled to receive the requested funds and that no other party is entitled to the funds
based upon: (check the statement(s) that apply):

_____ movant is the *pro se* creditor/claimant/self-representative of said funds and is the owner of the funds appearing on the
records of this court;

_____ movant is an individual not personally appearing before the court; however, alleges that he/she/it is the owner of the funds
as evidenced in the identification form as prescribed by South Carolina Local Bankruptcy Rule 3011-1 (SC LBR 3011-1) and the
accompanying Clerk's Instruction 3011-1;

_____ movant is a representative of the estate of a deceased claimant (owner of the funds), as evidenced in the attached
documents as prescribed by SC LBR 3011-1 and the accompanying Clerk's Instruction 3011-1;

_____ movant is a duly authorized corporate officer (if a corporation) or a general partner (if a partnership) and is the
representative of the owner of the funds, as evidenced in the attached documents as prescribed by SC LBR 3011-1 and the accompanying
Clerk's Instruction 3011-1;

_____ movant is an attorney (admitted to practice in this court in accordance with SC LBR 9010-1 and Local Rule 83.I.01 of the
Local Rules of the United States District Court for the District of South Carolina) representing the interests of the owner/creditor/claimant,
as evidenced in the attached documents as prescribed by SC LBR 3011-1 and the accompanying Clerk's Instruction 3011-1;

_____ movant has been assigned the claim, as evidenced in the attached documents as prescribed by SC LBR 3011-1 and the
accompanying Clerk's Instruction 3011-1;

_____ movant is named in the attached notarized Power of Attorney by the owner of the funds, valid under the laws of the State
of South Carolina, that empowers movant to collect the unclaimed funds described above on behalf of the owner-(check the applicable
statement(s):

_____ as the owner of the claim

_____ as the owner's attorney at law, with authorization to receive said funds

_____ as the assignee of the owner's claim to said funds
_____ as the owner's successor in interest, or
_____ as the personal representative of the owner's estate

WHEREFORE, the movant submits to the jurisdiction of this court and requests that an order be entered directing payment of the unclaimed funds described above to the movant.

The movant declares under penalty of perjury that the foregoing is true and correct:

Name of Movant: _____

Signature of Movant: _____

Title: _____

Date: _____

Certificate of Service

_____ I certify that I have mailed a copy of this motion and all attachments, postage prepaid, to the:

United States Attorney
for the District of South Carolina
1441 Main Street, Suite 500
Columbia, SC 29201

United States Trustee
1201 Main Street, Suite 2440
Columbia SC 29201

This _____ day of _____, _____.

(Name) _____
(Address) _____
(Phone No.) _____

_____ I, a notary public for the State of _____, certify that I have examined the motion for payment of unclaimed dividend, the identification form, and, when the motion is by an individual claimant or a representative of the estate of a deceased claimant, the following document which establishes identity (check appropriate line):

_____ birth certificate
_____ unexpired passport
_____ valid driver's license
_____ original Social Security card

and the above motion was subscribed and sworn to before me in _____,
(city/town), _____ (state), this _____ day of _____.

_____(seal)
Notary Public

My commission expires: _____

LOCAL OFFICIAL FORM 3011-1(d) TO SC LBR 3011-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

ORDER AUTHORIZING PAYMENT
OF UNCLAIMED DIVIDENDS

DEBTOR

This matter comes before the court pursuant to 11 U.S.C. § 347(a) and 28 U.S.C. § 2042 and the motion of _____, seeking disbursement of funds previously unclaimed by _____ (claimant) (Social Security Number or Tax Identification Number) in the above-named case. It appears from the motion and its supporting documentation that _____ is entitled to the funds now held by the United States Treasury. It is, therefore,

ORDERED, that the following dividend:

Amount of \$ _____ be paid to _____ (claimant) from the unclaimed dividend account maintained by the United States Treasury.

AND IT IS SO ORDERED.

United States Bankruptcy Judge

Columbia, South Carolina

_____, _____

LOCAL OFFICIAL FORM 3012-1(a) TO SC LBR 3012-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

)
)
)
)
)
)
)

CASE NO: _____
CHAPTER: _____
MOTION TO VALUE
SECURITY UNDER
11 U.S.C. § 506(a)¹

DEBTOR.

NAME AND ADDRESS OF SECURED CREDITOR:

SECURITY: _____

DEBTOR'S VALUATION OF THE SECURITY: _____

METHOD OF VALUATION (blue book, comparable real estate sales, etc.):

Claims secured by perfected security interest(s): _____

Amount: \$ _____

The undersigned moves in accordance with 11 U.S.C. § 506(a) to value the secured claim held by the creditor named above. Each of the undersigned acknowledges reading and understanding Federal Rule of Bankruptcy Procedure 9011.

Date: _____, _____

Signature of Movant

Signature of Attorney

Typed/Printed Name/Address/Telephone

District Court I.D. Number

¹ This form is for use only in chapter 11 and chapter 12 cases. See SC LBR 3015-1 for chapter 13 notice.

LOCAL OFFICIAL FORM 3012-1(b) TO SC LBR 3012-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

ORDER SETTING VALUE OF
SECURITY¹

DEBTOR.

Before the court is the 11 U.S.C. § 506(a) valuation motion of _____ regarding security described as ____

_____. As no timely objections to the granting of the motion have been filed with this court, it is,

ORDERED, that the claim of _____ is secured in the amount of \$ _____. The balance, if any, of the creditor's claim is unsecured. If the proof of claim filed by this creditor is either unsecured or secured in an amount less than the value set herein, this order will not operate to change the classification or amounts set out in the proof of claim. If a prior perfected lien encumbers the collateral, the collateral is subject to such lien, unless the court orders otherwise.

United States Bankruptcy Judge

Columbia, South Carolina

_____, ____

¹ This form is for use only in chapter 11 and chapter 12 cases. See SC LBR 3015-1 for chapter 13 notice.

LOCAL OFFICIAL FORM 3015-1(a) TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:)
)
)
)
)
 Soc. Sec. # _____)
 Soc. Sec. # _____)
)
)
 _____ Debtor(s). _____)

CASE NO: _____

NOTICE, CHAPTER 13 PLAN AND
RELATED MOTIONS

TO: _____

NOTICE OF: 1.) DEADLINE FOR FILING OBJECTIONS TO CONFIRMATION OF CHAPTER 13 PLAN; 2.) MOTION FOR VALUATION; 3.) MOTION TO AVOID CERTAIN LIENS; AND 4.) ASSUMPTION OR REJECTION OF EXECUTORY CONTRACTS¹

The following Chapter 13 Plan and Related Motions have been filed in the above-captioned case. They will be considered at the Confirmation Hearing, notice of which is given in the Notice of Meeting of Creditors. Any objection to the confirmation of the plan, to the payment of attorney's fees, to the Motion to Value Security, to the Motion to Avoid Judicial Lien or to Avoid a Nonpurchase Money, Nonpossessory Security Interest and Lien, or to the assumption or rejection of an executory contract, all as requested herein, must be made in writing, served upon the undersigned counsel for the debtor, **, the Chapter 13 Trustee, (**appropriate address for trustee) and filed with the Clerk of Court, United States Bankruptcy Court, Post Office Box 1448, Columbia, South Carolina 29202, within twenty-five (25) days from the date of filing of this Notice, Chapter 13 Plan and Related Motions. All objections must comply with South Carolina Local Bankruptcy Rule 9014-4 (SC LBR 9014-4).

The Plan and Related Motions propose to value the security of the following creditors:

The Plan and Related Motions propose to avoid a judicial lien or to avoid a nonpurchase-money, nonpossessory security interest or to avoid a lien of the following creditors:

¹ If this is a modified plan, insert language to identify it as such.

REVIEW THE PLAN AND RELATED MOTIONS CAREFULLY TO DETERMINE THE TREATMENT OF YOUR CLAIM UNDER THE PLAN.

If an objection is filed within twenty-five (25) days after the date of filing and such timely objection is filed before the Confirmation Hearing, the objection will be heard at the Confirmation Hearing, notice of which is given in the Notice of Meeting of Creditors. If an objection is filed within twenty-five (25) days after the date of filing and such timely objection is filed after the Confirmation hearing, a hearing on the objection will be scheduled and notice of such hearing will be given.

If no objection is timely filed in accordance with SC LBR 9014-4, the court, upon the recommendation of the Trustee and without further hearing or notice, may enter an order confirming the plan following the Meeting of Creditors (11 U.S.C. §341 Meeting) and granting the other relief requested therein.

NOTICE
(TO BE COMPLETED ONLY IF FORM PLAN IS ALTERED)

The plan below contains language that is in addition to that approved for use in the Chapter 13 Plans in the United States Bankruptcy Court for the District of South Carolina, or otherwise alters the approved Form Plan. Such language is highlighted by _____ (state whether by bold type, italics, or underlining).

The unapproved language referred to above appears in Paragraph _____. Parties wishing to object to inclusion of unapproved language or any other provision of the Plan should review the following Notice, Chapter 13 Plan and Related Motions for the correct procedure to be followed.

CHAPTER 13 PLAN AND RELATED MOTIONS

1. The future earnings and income of the debtor(s) are submitted to the supervision and control of the trustee, and the debtor(s) shall pay to the trustee the sum of \$_____ per month, for a period of ____ months or longer if necessary for completion of this plan according to its terms, but not to exceed 60 months.
2. After the deduction from all disbursements of the allowed trustee's commission and expenses, the trustee shall make disbursements as follows:
3. A proof of claim for attorney's fees of the debtor(s) in the amount of \$_____ will be filed and shall be paid at a rate of ____% of the monthly payments to creditors (if no percentage is stated, then payment shall be made at twenty-five(25%)), until paid in full. This percentage may be reduced or increased by the trustee in order to ensure that there are funds available for payment to secured creditors as set forth below.
4. Payments to secured creditors, as follows:
 - (a) Long term or mortgage debt - ARREARAGE ONLY, to be paid to _____ at \$____ or more per month, along with ____% interest. Regular payments to be made directly by the debtor(s), beginning _____, _____.
 - (b) Long term or mortgage debt - ARREARAGE ONLY, to be paid to _____ at \$____ or more per month, along with ____% interest. Regular payments to be made directly by the debtor(s), beginning _____, _____.
 - (c) Secured debt - Payments of \$_____ or more per month, to _____ until the net balance/value of lien (strike one) plus ____% interest has been paid in full. If lien is to be valued, the debtor hereby moves to value the lien at \$_____ in

accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's value is as follows: _____ vehicle mileage (if applicable) _____. Liens senior to the above-named creditor are held by the following creditors in the following amounts: _____.

Other secured debt - Payments of \$ _____ or more per month, to _____ until the net balance/value of lien (strike one) plus ____% interest has been paid in full. If lien is to be valued, the debtor hereby moves to value the lien at \$ _____ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's value is as follows: _____, vehicle mileage (if applicable) _____. Liens senior to the above-named creditor are held by the following creditors in the following amounts: _____.

Other secured debt - Payments of \$ _____ or more per month, to _____ until the net balance/value of lien (strike one) plus ____% interest has been paid in full. If lien is to be valued, the debtor hereby moves to value the lien at \$ _____ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's value is as follows: _____, vehicle mileage (if applicable) _____. Liens senior to the above-named creditor are held by the following creditors in the following amounts: _____.

Other secured debt - Payments of \$ _____ or more per month, to _____ until the net balance/value of lien (strike one) plus ____% interest has been paid in full. If lien is to be valued, the debtor hereby moves to value the lien at \$ _____ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's value is as follows: _____, vehicle mileage (if applicable) _____. Liens senior to the above-named creditor are held by the following creditors in the following amounts: _____.

Secured tax debt - Payments of \$ _____ or more per month, to _____ on its claim secured by a tax lien until the net balance/value of lien (strike one) plus ____% interest has been paid in full. If lien is to be valued, the debtor hereby moves to value the lien at \$ _____ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's value is as follows: _____. Liens senior to the above-named creditor are held by the following creditors in the following amounts: _____. Of the remaining tax claim, the following amount of \$ _____ will be accorded priority unsecured tax status and the balance of the claim will be accorded general unsecured status and paid in accordance with paragraph 6(a) if a proof of claim is timely filed.

(d) Other secured debt(s) to be treated as follows:

(e) The following payments to mortgage creditors are current and the debtor(s) will continue making the regular payments directly to:

(f) The debtor hereby moves to avoid the following nonpossessory, nonpurchase-money security interests pursuant to 11 U.S.C. §522(f), and SC LBR 3015-1, and the notice attached hereto. If the debtor intends to avoid a security interest pursuant to other applicable sections of the United States Bankruptcy Code (Code), then the debtor shall so state below and shall file and serve the necessary pleadings on or before the date set for the initial meeting of creditors.

Name of creditor	Amount of Security Interest	Amount of lien not to be avoided and to be paid as set out in Paragraph 4(c) Above
------------------	-----------------------------	---

- (g) The debtor hereby moves to avoid the following judicial liens pursuant to 11 U.S.C. §522(f), and SC LBR 3015-1, and the notice attached hereto. If the debtor intends to avoid a judicial lien pursuant to other applicable sections of the Code, then the debtor shall so state below and shall file and serve the necessary pleadings on or before the date set for the initial meeting of creditors.

Name of Creditor	Value of Debtor's Interest	Total Amt. of Unavoid- able Senior Liens	Amt. of Exemption Impaired	Amt. of Judicial Lien	Amt. Of Judicial Lien to be Avoided	Amt. Of Judicial Lien Not to be Avoided
---------------------	----------------------------------	---	----------------------------------	-----------------------------	--	--

5. Subsequent to full payment of the above claims, all 11 U.S.C. §507 priority creditors, (including, but not limited to, past due prepetition alimony, support or maintenance or taxes or other claims of governmental units) will have the allowed amounts of their prepetition claims paid on a pro-rata basis. The debtor shall pay all similar post-petition obligations to such creditors as they come due directly to such creditors.

6. Subsequent to the above, unsecured creditors will be treated as follows:

- (a) General unsecured creditors will be paid __% of their allowed claims, on a pro-rata basis. If no percentage is stated, then general unsecured creditors will be paid 100% of their allowed claims, on a pro rata basis. If the unsecured creditors are entitled to full payment on their claims plus interest, then interest shall be paid at the rate of __ %.

- (b) The following creditors who hold unsecured consumer claims with codebtors will be paid __% of their allowed claims plus __% interest on a pro-rata basis:

- (c) The following creditors who hold unsecured claims of the kind specified in 11 U.S.C. §1328(a)(2) and (3) will be paid _% of their allowed claims plus __% interest on a pro-rata basis._____.

7. The debtor moves for assumption of the executory contracts and leases listed below. The debtor agrees to abide by all terms of the agreements and to cure any prepetition arrearages or defaults in the manner listed below.

<u>Creditor</u>	<u>Amount of regular payment</u>	<u>Amt. of default (state if none)</u>	<u>Cure Provisions</u>	<u>Regular pmts. and cure pmts. paid by debtor/by trustee</u>
-----------------	--------------------------------------	--	------------------------	---

An executory contract or lease not specifically mentioned above is treated as rejected.

8. Upon confirmation of the plan, property of the estate will remain property of the estate, but title to the property shall revert in the debtor. Unless the plan provides otherwise, secured creditors shall retain the liens until the allowed amounts of their secured claims are paid. The terms of the debtor's prepetition agreement with a secured creditor shall continue to apply except as otherwise provided for in this plan or the order confirming plan. Any party entitled to collect child support under applicable non-bankruptcy law may collect post-petition child support from the wages of the debtor-parent to the extent that those wages exceed payments to the Chapter 13 Trustee and/or from that portion of any property that the debtor-parent has claimed as exempt without further order or relief from the automatic stay. Any claim for pre-petition child support must be collected in accordance with 11 U.S.C. §507 (a)(7) and 11 U.S.C. §1322 (a)(2). (See SC LBR 4001-3)

Unsecured claims which are not filed within the time required by (Federal Rule of Bankruptcy Procedure 3002(c) (Fed. R. Bankr. P. 3002(c))) will be allowed claims unless disallowed by court order, but such claims shall be subordinated to timely filed unsecured claims and paid pro-rata only to the extent that funds listed in paragraph 1 are available after full payment of timely filed unsecured claims pursuant to paragraph 6(a).

To receive payment from the trustee, a secured creditor must file a proof of claim. Secured claims which are not filed within the time required by Fed. R. Bankr. P. 3002(c) may be disallowed or subordinated to other claims upon further order of the court.

Confirmation of this plan does not bar a party in interest from objecting to a claim which is not filed in accordance with Fed. R. Bankr. P. 3001 or Fed. R. Bankr. P. 3002.

If property is to be released or otherwise surrendered pursuant to this plan, the creditors holding a lien on, or interest in, the property to be released must provide the trustee with acceptable evidence of perfection of the lien or interest, otherwise the property may not be released or surrendered.

Any creditor holding a claim secured by property which is removed from the protection of the automatic stay, whether by judicial action, voluntary surrender, or through operation of the plan, will receive no further distribution from the trustee, unless an itemized proof of claim for any deficiency is filed within a reasonable time after the removal of the property from the protection of the automatic stay. Any funds that would have been paid to such a creditor will be distributed to other creditors, unless the court orders otherwise. This also applies to creditors who may claim an interest in, or lien on, property which is removed from the protection of the automatic stay by another lienholder or released to another lienholder, unless the court orders otherwise.

If a tax creditor files a claim purporting to be a secured claim but does not timely object to confirmation of this plan, then the claim may be paid as a priority claim.

If a claim is scheduled as unsecured, and the creditor files a proof of claim alleging that the claim is secured but does not timely object to confirmation of the plan, then the creditor may be treated as unsecured for purposes of distribution under the plan. This paragraph is not intended to limit the right of the creditor affected by this paragraph to seek relief from the stay or to object to the discharge of the debt.

If a claim is listed in the plan as secured, and the creditor files a proof of claim as an unsecured creditor, the creditor may be treated as unsecured for purposes of distribution under the plan.

The debtor will not incur indebtedness or sell property outside the ordinary course of business without permission of the court.

The debtor is responsible for protecting the non-exempt value of all property of the estate and for protecting the estate from any liability resulting from operation of a business by the debtor.

9. Pay order request or other plan provisions not inconsistent with the above:

Dated: _____, _____.

Signature of Debtor

Signature of Debtor

Signature of Attorney

Typed/Printed Name/Address/Telephone

Certificate of Service

The undersigned hereby certifies that he/she served foregoing Notice, Plan and Related Motions on creditors and parties in interest entitled to such notice. The parties served are individually listed on the accompanying list or mailing matrix.

Dated: _____, _____

LOCAL OFFICIAL FORM 3015-1(b) TO SC LBR 3015-1

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:)	
)	CASE NO: _____
)	
)	CHAPTER 13
)	
_____ DEBTOR.)	

NOTICE OF PLAN MODIFICATION BEFORE CONFIRMATION

TO: Trustee
Affected Creditor: _____

PLEASE TAKE NOTICE that pursuant to 11 U.S.C. § 1323 and Federal Rule of Bankruptcy Procedure 2002(a)(6), the debtor is filing the attached modified plan and that the above-identified creditor is adversely affected thereby.

Any creditor wishing to object to the proposed modification of the plan must file an objection with the clerk of the United States Bankruptcy Court, Post Office Box 1448, Columbia, South Carolina 29202 within twenty-five (25) days from the date of service below.

Pursuant to South Carolina Local Bankruptcy Rule 9014-4, any objection must be written and properly captioned in accordance with Fed. R. Bankr. P. 9004, set forth with particularity the reasons for the objection and be served on the attorney below, the trustee, and other parties in interest and filed with the clerk of this court not later than the deadline given above. Any objecting party failing to comply with this procedure may be denied the opportunity to appear and be heard by the court and the modified plan may be confirmed.

If the modified plan adversely affects any party and the adversely affected party files an objection within twenty-five (25) days after the date of service, the objection will be heard at the confirmation hearing, notice of which is given in the Notice of Meeting of Creditors. If the modified plan adversely affects any party and the adversely affected party files an objection within twenty-five (25) days after the date of service and such timely objection is filed after the confirmation hearing, a hearing on the objection will be scheduled and notice of such hearing will be given.

The undersigned hereby certifies that he/she has properly served this notice and the accompanying plan and related motions on the parties listed above.

Date: _____, _____
Signature of Attorney

Typed/Printed Name/Address/Telephone

District Court I.D. Number

LOCAL OFFICIAL FORM 3015-1(c) TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

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CASE NO: _____

CHAPTER 13

DEBTOR.

NOTICE OF PLAN MODIFICATION AFTER CONFIRMATION

TO: Debtor, Trustee, All Creditors, and other Parties in Interest

PLEASE TAKE NOTICE that pursuant to 11 U.S.C. § 1329(a), Federal Rule of Bankruptcy Procedure 3015(g), and Fed. R. Bankr. P. 2002(a)(6), the moving party is filing the attached motion to modify confirmed plan, memorandum, and modified plan.

Any party wishing to object to the proposed modification of the plan must file an objection with the clerk of the United States Bankruptcy Court, Post Office Box 1448, Columbia, South Carolina 29202 within twenty-five (25) days from the date of service indicated below.

Pursuant to South Carolina Local Bankruptcy Rule 9014-4, any objection must be written and properly captioned in accordance with Fed. R. Bankr. P. 9004, set forth with particularity the reasons for the objection, and be served on the attorney below, the trustee, and other parties in interest and filed with the clerk of this court not later than the deadline given above. Any objecting party failing to comply with this procedure may be denied the opportunity to appear and be heard by the court, and the modified plan may be confirmed.

If an objection is filed within twenty-five (25) days after the date of service, a hearing on the objection will be scheduled and notice of such hearing will be given.

The undersigned hereby certifies that he/she has properly served this notice and the accompanying plan and related motions on the parties listed above.

Date: _____, _____

Signature of Attorney

Typed/Printed Name/Address/Telephone

District Court I.D. Number

LOCAL OFFICIAL FORM 3018-1 TO SC LBR 3018-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:) CHAPTER 11
) CASE NO.
)
) BALLOT FOR ACCEPTING OR
Debtor(s).) REJECTING PLAN
)
)

_____ filed a plan of reorganization dated _____ in this case. The court has approved a disclosure statement (either conditionally or after notice and upon hearing) with respect to the plan. The disclosure statement provides information to assist you in deciding how to vote on the plan. If you do not have a disclosure statement, you may obtain a copy from the proponent of the plan whose name and address is shown on the order setting confirmation hearing. Court approval of the disclosure statement does not indicate approval of the plan by the court. The plan referred to in this ballot can be confirmed by the court only if two-thirds in amount and more than one-half in number of creditors in each class voting on the plan, and at least two-thirds in amount of each class of interests voting on the plan, accept the plan.

You should review the disclosure statement and plan before you vote. You may wish to seek legal advice concerning the plan and your classification and treatment under the plan. Your claim or equity interest has been placed in a specific class under the plan. If you hold claims or equity interests in more than one class, the proponent should provide you with a ballot for each class in which you are entitled to vote.

Return this ballot on or before _____, to the United States Bankruptcy Court, PO Box 1448, Columbia, SC 29202 and serve a copy on the proponent of the plan shown on the order setting confirmation hearing. Ballots accepting or rejecting the plan shall be counted only if received by the United States Bankruptcy Court on or before _____. If your ballot is not received by the United States Bankruptcy Court by the deadline, and such deadline is not extended, your vote will not count as either an acceptance or rejection of the plan. If the plan is confirmed by the court, it will be binding on you whether or not you vote.

ACCEPTANCE OR REJECTION OF THE PLAN¹

(Fill in A, B, or C; if creditor has a claim in more than 1 area file a separate ballot for each claim)

A. The undersigned voter is the holder of a **SECURED, PRIORITY, OR UNSECURED NONPRIORITY CLAIM**, and has a claim against the debtor in the unpaid amount of \$_____.

THE VOTER IS A CLASS _____ CREDITOR AND () ACCEPTS THE PLAN OR () REJECTS THE PLAN

OR

B. The undersigned voter is the holder of a **BOND, DEBENTURE, OR OTHER DEBT SECURITY**, and has a claim against the debtor in the amount of \$_____ (principal amount). The undersigned should describe the bond, debenture or other debt security, and for purposes of this ballot, you should not adjust the principal amount for any accrued or unmatured interest.

THE VOTER IS A CLASS _____ CREDITOR AND () ACCEPTS THE PLAN OR () REJECTS THE PLAN

OR

C. The undersigned voter is the holder of an **EQUITY INTEREST**, and has _____ shares or other interests of (describe equity interest: _____) in the debtor.

THE VOTER IS A CLASS _____ CREDITOR AND () ACCEPTS THE PLAN OR () REJECTS THE PLAN

Dated: _____

Print or type name of creditor

¹Failure to provide complete information in the applicable section may result in the ballot being unable to be classified or counted.

Signature

Title (if corporation or partnership)

Address

LOCAL OFFICIAL FORM 4001-1(a) TO SC LBR 4001-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:)	CHAPTER:
)	
)	CASE NO:
)	
)	NOTICE OF MOTION FOR
)	RELIEF FROM AUTOMATIC
)	STAY (11 U.S.C. § 362)
)	
DEBTOR.)	

TO: DEBTOR, TRUSTEE (if applicable), AND THOSE NAMED IN THE ATTACHED MOTION

PLEASE TAKE NOTICE THAT a hearing will be held on the attached Motion on:

Date: _____

Time: _____

Place: [location including building and street address and city]

Within 10 days after service of the attached Motion, the Notice of Motion, the movant's Certification of Facts, (and a blank Certification of Facts form (applicable to service on *pro se* parties only)), any party objecting to the relief sought shall:

- (1) File with the clerk a written objection to the 11 U.S.C. § 362 Motion;
- (2) File with the clerk a Certification of Facts;
- (3) Serve on the movant items 1 and 2 above at the address shown below; and
- (4) File a certificate of such service with the clerk.

If you fail to comply with this procedure, you may be denied the opportunity to appear and be heard on this proceeding before the court.

DATE OF SERVICE: _____

MOVANT: _____

ATTORNEY: _____

ATTORNEY'S ADDRESS: _____

LOCAL OFFICIAL FORM 4001-1(b) TO SC LBR 4001-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

CERTIFICATION OF FACTS

DEBTOR.

In the above-entitled proceeding, in which relief is sought by (name of movant) from the automatic stay provided by 11 U.S.C. § 362, I do hereby certify to the best of my knowledge the following:

- (1) Nature of Movant's Interest.
- (2) Brief Description of Security Agreement, copy attached (if applicable).
- (3) Description of Property Encumbered by Stay (include serial number, lot and block number, etc.).
- (4) Basis for Relief (property not necessary for reorganization, debtor has no equity, property not property of estate, etc.) include applicable subsection of 11 U.S.C. § 362).
- (5) Prior Adjudication by Other Courts, copy attached (Decree of Foreclosure, Order for Possession, Levy of Execution, etc., if applicable).
- (6) Valuation of Property, copy of Valuation attached (Appraisal, Blue Book, etc.):

Fair Market Value	_____
Liens (Mortgages)	_____
Equity Before Exemption	_____
Debtor's Exemption (-)	_____
Net Equity	_____
Source/Basis of Value	_____
- (7) Amount of Debtor's Estimated Equity (using figures from paragraph 6, supra).
- (8) For Lien Holder: List all post-petition payments received by lien holder; date and amount of last payment received; and month for which last payment was applied.

Date: _____, _____

Signature of Attorney

Attorney for: _____

Typed/Printed Name/Address/Telephone

District Court I.D. Number

LOCAL OFFICIAL FORM 4001-1(c) TO SC LBR 4001-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

SETTLEMENT ORDER

DEBTOR.

This matter comes before the court pursuant to the motion of _____ which seeks relief from the automatic stay in this case. A hearing was held on _____ at which one or more counsel of the parties who are not in default announced the terms of settlement of the motion and advised the court that the trustee had filed no objection to the motion.

Now therefore, upon the agreement of the parties, it is hereby

ORDERED THAT:

(1) Debtor shall continue to remit to the movant the regular post-petition monthly payments being _____ (date) and continue said payments thereafter pursuant to the loan documents attached to the Motion for Relief from Stay.

(2) In addition to the payments set forth above, debtor shall cure post-petition arrearage and pay attorney's fees and costs in the total amount of \$_____. This total amount consists of post-petition payments for the months of _____ (date) through _____ (date) in the amount of \$_____ each; late charges of \$_____; and attorney's fees and costs in the amount of \$_____. The total amount shall be paid directly to the movant at:

_____ (Movant's name)
_____ (Movant's address)
Attention: Bankruptcy Department
Loan No. _____

as follows:

in _____ consecutive monthly installments of \$_____ each and one final installment of \$_____. Said installment payments shall commence on _____ and continue on the _____ (due date) day of each consecutive month thereafter until paid in full.

IT IS FURTHER ORDERED that should the debtor fail to make the payments described above or any subsequent regular payments within _____ from their due date, upon an ex parte showing by affidavit of that default and a proposed order, the movant shall be entitled to relief from the stay [and co-debtor stay] so that it can proceed with its state court remedies against its security, including making demand for payment of the amount due. The movant shall report to this court any funds received as a result of a lawful disposition of the real property in excess of its total indebtedness plus any other valid lien against the subject property. The claimant agrees to waive any claim arising under 11 U.S.C. §503(b) or §507(b) as a result of this order. The movant further agrees that any funds realized in excess of its debt will be paid to the trustee.

AND IT IS SO ORDERED.

United States Bankruptcy Judge

_____, South Carolina
Date: _____, 199__

I certify that this order contains a true and complete statement of the agreed upon terms of settlement between the parties.

----- (Date) -----
Attorney for Movant/Debtor/Trustee

LOCAL OFFICIAL FORM 4001-3(a) TO SC LBR 4001-3

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

MOTION FOR PERMISSION TO
COLLECT CHILD SUPPORT

DEBTOR.

_____, (moving party), alleges under penalty of perjury as follows:

- (1) This court has jurisdiction over this motion pursuant to 28 U.S.C. § 1334, 11 U.S.C. § 362(b)(2), and 11 U.S.C. § 362(d).
- (2) _____ (parent/debtor) is a debtor in the above referenced case.
- (3) _____, is a child of the debtor listed in paragraph 2.
- (4) Moving party is the custodian or custodial parent of a child or children listed in paragraph 3. or is the assignee of such custodian or custodial parent, or representative of the clerk of the state court authorized to collect child support.
- (5) By agreement or by court order, (a copy of which is attached to this motion) the debtor listed in paragraph 2. is obligated to pay child support for the child or children listed in paragraph 3.

Wherefore, moving party requests that this court enter its order permitting the moving party to collect child support from post-petition earnings from services of the debtor listed in paragraph 2, and for such other relief as is just.

The undersigned acknowledges that he/she has read and understands Federal Rule of Bankruptcy Procedure 9011.

Date: _____, _____

Signature of Moving Party

Typed/Printed Name/Address/Telephone

LOCAL OFFICIAL FORM 4001-3(b) TO SC LBR 4001-3

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

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CASE NO: _____

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CHAPTER: _____

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CERTIFICATE OF SERVICE

)

DEBTOR.

)

I, the undersigned, under penalty of perjury, hereby certify that I have served copies of the Notice of Motion for Permission to Collect Child Support and the Motion for Permission to Collect Child Support by mailing a copy of the same by First Class Mail, Postage Prepaid, to the debtor, attorney for the debtor, and trustee, if one has been appointed, at the following addresses:

Debtor

Name: _____

Address: _____

Attorney for the Debtor

Name: _____

Address: _____

Trustee (if one has been appointed)

Name: _____

Address: _____

Signature of Certifying Party

Date

LOCAL OFFICIAL FORM 4001-3(c) TO SC LBR 4001-3

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

ORDER GRANTING
MOTION FOR PERMISSION
TO COLLECT CHILD
SUPPORT

DEBTOR.

Before the court is the motion for permission to collect child support filed by _____, (moving party) as custodian or custodial parent of a child or children of the debtor, as assignee of such custodian or custodial parent, or as a state court representative. It appears that the debtor/parent named in the motion of the moving party is obligated to support the child or children named in the motion.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the moving party is hereby authorized to collect child support from the post-petition earnings from services performed by the debtor/parent until the child support obligation is paid in full; provided, however, that any such right of collection is subject to, and subordinate to, any order to pay trustee issued by this court in a pending chapter 13 case. Furthermore, to the extent the moving party is attempting to collect pre-petition child support in a chapter 13 case, this order is not applicable.

United States Bankruptcy Judge

Date: _____, ____

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

)
) **CASE NO:** _____
) **CHAPTER:** _____
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NOTICE AND MOTION PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 4001(d)

TAKE FURTHER NOTICE that no hearing will be held on this application unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on _____, ___, at _____m., at _____, _____, South Carolina. No further notice of this hearing will be given.

Signature of Attorney

Typed/Printed Name/Address/Telephone

District Court I.D. Number

LOCAL OFFICIAL FORM 4003-1(a) TO SC LBR 4003-1

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:

)

) **CASE NO:** _____

) **CHAPTER:** _____

)

) **MOTION TO AVOID JUDICIAL**

) **LIEN (11 U.S.C. § 522(f))¹**

)

DEBTOR.

)

TO THE TRUSTEE (if one is appointed) AND THE JUDGMENT LIEN CREDITOR LISTED BELOW:

Name of Creditor	a) Amt. of Judicial Lien	b) Total Amt. + Of Unavoidable Lien	c) Amt. Of + Exemption = Claimed	d) Enter Amount -	e) Value of = Debtor's Interest In Property	f) Amt. Of Judicial Lien to Be Avoided (to extent d is > e)	g) Amt. Not Avoided

The debtor hereby moves, in accordance with 11 U.S.C. § 522(f)(1)(A), to avoid the judicial lien held by each creditor named above in the amount listed above in the property claimed as exempt by the debtor. Each of the undersigned acknowledges reading and understanding Federal Rule of Bankruptcy Procedure 9011 and certify the following:

- (a) The judicial lien(s) referenced above represent a judgment which has been recorded in a county in which the debtor owns real estate or a levy/attachment on personal property; and
- (b) The property on which the judicial lien is sought to be avoided is owned by the debtor and has been properly exempted according to Schedule C filed herein.

Signature of Movant

Signature of Attorney

Typed/Printed Name/Address/Telephone

District Court I.D. Number

Date: _____, _____

¹ This form is for use only in chapter 7, chapter 11 and chapter 12 cases. See SC LBR 3015-1 for chapter 13 notice.

LOCAL OFFICIAL FORM 4003-1(b) TO SC LBR 4003-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

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) CASE NO: _____

) CHAPTER: _____

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) MOTION TO AVOID SECURITY

) INTEREST (11 U.S.C. § 522(f)(1)(B))¹

)

DEBTOR.

)

TO THE TRUSTEE (if applicable) AND THE SECURED CREDITOR LISTED BELOW:

Name And Address of Creditor

Type of Property/Date of Security Agreement

The debtor moves pursuant to 11 U.S.C. § 522(f)(1)(B), to avoid the nonpurchase-money, nonpossessory security interest held by each creditor named above in the property claimed as exempt by the debtor. Each of the undersigned acknowledges reading and understanding Federal Rule of Bankruptcy Procedure 9011.

Signature of Movant

Signature of Attorney

Typed/Printed Name/Address/Telephone

District Court I.D. Number

Date: _____, _____

¹ This form is for use only in chapter 7, chapter 11 and chapter 12 cases. See SC LBR 3015-1 for chapter 13 notice.

LOCAL OFFICIAL FORM 4003-1(c) TO SC LBR 4003-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

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CASE NO: _____

CHAPTER: _____

ORDER AVOIDING NON-PURCHASE

MONEY, NONPOSSESSORY

SECURITY INTEREST

(11 U.S.C. § 522(f)(1)(B))¹

DEBTOR.

Before the court is the motion of the debtor to avoid the security interest held by the following creditor:

NAME AND ADDRESS OF CREDITOR

DATE OF SECURITY AGREEMENT

The court finds that, the security interest of the above-named creditor is nonpurchase-money and nonpossessory in nature and impairs an exemption to which the debtor would otherwise be entitled under 11 U.S.C. § 522(b) and Chapter 41 of Title 15, Code of Laws of South Carolina, 1976 (as amended). The security interest should therefore be avoided pursuant to 11 U.S.C. § 522(f)(1)(B).

Therefore, IT IS ORDERED that the nonpossessory, nonpurchase-money security interest held by the above-named creditor be, and hereby is, avoided.

United States Bankruptcy Judge

Columbia, South Carolina

_____, ____

¹ This form is for use only in chapter 7, chapter 11 and chapter 12 cases. See SC LBR 3015-1 for chapter 13 notice.

LOCAL OFFICIAL FORM 4003-1(d) TO SC LBR 4003-1

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:

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CASE NO: _____

CHAPTER: _____

**ORDER AVOIDING JUDICIAL LIEN
(11 U.S.C. § 522(f)(1)(A))¹**

DEBTOR.

Before the court is the motion of the debtor to avoid the judicial lien held by the following creditor:

Name of Creditor	Value of Debtor's Interest Absent Any Lien	Total Amt. Of Unavoidable Senior Lien	Amt. Of Exemption Impaired	Amt. Of Judicial Lien	Amt. Of Judicial Lien to Be Avoided	Amt. Of Judicial Lien Not to Be Avoided
------------------	--	---	----------------------------------	--------------------------	---	---

The court finds that the judicial lien of the above-named creditor impairs the exemptions to which the debtor would otherwise be entitled under 11 U.S.C. § 522(b) and Chapter 41 of Title 15, Code of Laws of South Carolina, 1976 (as amended), and that the judicial lien should therefore be avoided pursuant to 11 U.S.C. § 522(f)(1)(A) in the amount set forth above.

Therefore, IT IS ORDERED that the judicial lien held by the above-named creditor be, and hereby is, avoided in the amount set forth above. Any judicial lien set forth above which is avoided in full may be canceled of record at any time after 30 days after a discharge in this case is granted.

United States Bankruptcy Judge

Columbia, South Carolina

_____, _____

¹ This form is for use only in chapter 7, chapter 11 and chapter 12 cases. See SC LBR 3015-1 for chapter 13 notice.

LOCAL OFFICIAL FORM 5010-1 TO SC LBR 5010-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:) CHAPTER
)
) CASE NO:
)
 Debtor(s).) ORDER UPON MOTION REOPENING CASE
-----)

Before the court is the debtor's motion, filed on _____, to reopen this closed case pursuant to 11 U.S.C. § 350(b).

It appears that the motion should be granted and the case be reopened.

IT IS, THEREFORE, ORDERED that

1. The case is reopened;

2. The action proposed in the motion be initiated within fifteen (15) days of the entry of this order;

3. Upon the completion of the proposed action or upon the failure of the movant to initiate timely the proposed action, the Clerk of the Bankruptcy Court (the clerk) shall close this case without further order;

4. The appointment of a trustee by the United States Trustee is/is not necessary to protect the interests of the creditors and the debtor and to ensure the efficient administration of the case (See Federal Rule of Bankruptcy Procedure 5010);

5. If a meeting of creditors is necessary, the debtor shall, within five (5) business days after the entry of this order, obtain from the Intake Division of the clerk's office the date, time, and location of the rescheduled meeting, give written notice thereof to each party in interest, and file proof of the service of such notice with the clerk;

6. If this is a case under Chapter 13 of the United States Bankruptcy Code and if, according to the trustee's record a payment under the Chapter 13 plan is currently due, the debtor shall make such payment to the trustee by cashier's check or certified funds within five (5) business days after the entry of this order; if such payment is not made timely, the case may be dismissed without further notice or hearing.

United States Bankruptcy Judge

Columbia, South Carolina
_____, ____

LOCAL OFFICIAL FORM 6004-1(a) TO SC LBR 6004-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

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CASE NO: _____

CHAPTER: _____

DEBTOR.

TO: All Creditors and Parties in Interest

NOTICE AND APPLICATION FOR SALE OF PROPERTY FREE AND CLEAR OF LIENS

YOU ARE HEREBY NOTIFIED that (the debtor or trustee, as applicable) is applying for approval to sell the property of the debtor's estate described below free and clear of all liens and encumbrances according to the terms and conditions stated below.

TAKE FURTHER NOTICE that any response, return and/or objection to this application, should be filed with the Clerk of the Bankruptcy Court no later than *(enter number of days) days from service of motion/application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on _____, ____, at _____m., at _____, _____, South Carolina. No further notice of this hearing will be given.

TYPE OF SALE: (public, private)

PROPERTY TO BE SOLD: (specific legal description, includes identification numbers on all property where obtainable, vehicle ID numbers, serial numbers, tax ID numbers, lot and block number, street address including zip code, county, acreage, etc.)

PRICE: (gross sales price, terms of sale, or highest bid and with or without reserve if public auction)

APPRAISAL VALUE: (state value and source of appraisal; if no formal appraisal, put the trustee's estimated value)

BUYER: (full name, address, relationship to debtor and interest in the case, if any, or state if public auction)

PLACE AND TIME OF SALE: (street address and mailing address, if different, time if public sale)

SALES AGENT/AUCTIONEER/BROKER: (name, mailing address, phone number to call with questions concerning the property or the sale)

COMPENSATION TO SALES AGENT/AUCTIONEER/BROKER/ETC.: (amount of commission, method of computation, and \$ cap placed on expenses {if applicable} for this sale)

ESTIMATED TRUSTEE'S COMPENSATION: Reasonable compensation to be determined by the court (but not to exceed the limits set in 11 U.S.C. § 326(a)).

LIENS/MORTGAGES/SECURITY INTERESTS ENCUMBERING PROPERTY: (name of each lienholder, lien position, estimated amount due, whether lienholder consents to sale, whether lien attaches to proceeds of sale or whether lien is to be satisfied upon sale)

DEBTOR'S EXEMPTION: (amount, type or not applicable)

PROCEEDS ESTIMATED TO BE PAID TO ESTATE: (net to estate after costs of sale, including all commissions and expenses, and

payment of liens encumbering property)

STAY OF ORDER: (If appropriate, a request that the automatic 10-day stay not apply to the final order may be included here)

Applicant is informed and believes that it would be in the best interest of the estate to sell said property by (public or private sale). Applicant also believes that the funds to be recovered for the estate from the sale of said property justify its sale and the filing of this application.

The court may consider additional offers at any hearing held on this notice and application for sale. The court may order at any hearing that the property be sold to another party on equivalent or more favorable terms.

The trustee or debtor in possession, as applicable, may seek appropriate sanctions or other similar relief against any party filing a spurious objection to this notice and application.

WHEREFORE, applicant requests the court issue an order authorizing sale of said property and such other and further relief as may be proper.

Date: _____, _____

Signature of Applicant

Typed/Printed Name/Address/Telephone

District Court I.D. Number

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

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LOCAL OFFICIAL FORM 6004-1(c) TO SC LBR 6004-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

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CASE NO: _____

CHAPTER: _____

DEBTOR.

ORDER AUTHORIZING SALE OF ASSET

This proceeding comes before the court on the application of _____ for authority to sell free and clear of liens the estate's interest in _____ (specific legal description of property) _____.

The court has been informed that all parties in interest have been notified of the intention to sell said property, and that no objection to the proposed sale has been received or filed by any party in the office of the clerk of this court. The _____ (trustee or debtor in possession) _____ has represented to the court that such sale is in the best interest of creditors of the estate. The _____ (trustee or debtor in possession) _____ also has informed the court that liens claimed by _____ against said property _____ (should attach to the proceeds of sale, or should be paid upon the sale) _____ of said property. It is therefore,

ORDERED, ADJUDGED, AND DECREED, that the _____ (trustee or debtor in possession) _____ is authorized to sell and to convey the estate's interest in the above-described property, and that the liens claimed by the above-named creditors _____ (shall attach to the proceeds of sale, or shall be paid upon the sale) _____ of said property.

[(Include the following paragraph if the application/notice included a request for such relief. (See SC LBR 6004-1(c), LOF 6004-1(a)) IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that the automatic 10-day stay provided by Fed.R.Bankr.P. 6004(g) does not apply to this sale.]

United States Bankruptcy Judge

Date: _____, _____

THE APPLICANT:

Signature of Trustee/Debtor

Typed/Printed Name/Address/Telephone

District Court I.D. Number

Date: _____, _____

LOCAL OFFICIAL FORM 6007-1(a) TO SC LBR 6007-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

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CASE NO: _____

CHAPTER: _____

DEBTOR. _____)

TO: All Creditors and Parties in Interest

NOTICE AND APPLICATION FOR ABANDONMENT OF PROPERTY

YOU ARE HEREBY NOTIFIED that (debtor or trustee, as applicable) proposes that the estate property described herein be abandoned according to the terms and conditions stated below. Applicant is informed and believes that it would be in the best interest of creditors and the estate to abandon the estate's interest in said property.

TAKE FURTHER NOTICE that any response, return and/or objection to this application, should be filed with the Clerk of the Bankruptcy Court no later than *(enter number of days) days from service of motion/application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on _____, at _____m., at _____, South Carolina. No further notice of this hearing will be given.

PROPERTY TO BE ABANDONED: (specific description, includes identification numbers on all property where obtainable, vehicle I.D. numbers, serial numbers, real estate legal description, etc.)

APPRAISAL VALUE: (list both the value placed upon the collateral by the debtor and, if applicable, by the party seeking the abandonment. "Unknown" is unacceptable. Include the source of each value. If an appraisal exists, i.e. tax appraisal, blue book, formal appraisal, include the following information regarding each appraisal: the date and type of appraisal, the appraised value, and the name of the appraiser. If an appraisal exists, it must be acknowledged and addressed.)

LIENS/SECURITY INTERESTS: (list the name of each party having a lien against the property to be abandoned. State the amount of each lien against the property. These liens total the sum of \$ _____)

MOVING PARTIES: (state the name, address, and telephone number of the trustee, the debtor, and their attorney, and of the moving party, if different)

WHEREFORE, applicant requests the court issue an order authorizing the abandonment of the estate's interest in said property and for such other and further relief as may be proper.

Date: _____, _____

Signature of Applicant

Typed/Printed Name/Address/Telephone

District Court I.D. Number

LOCAL OFFICIAL FORM 6007-1(b) TO SC LBR 6007-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

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CASE NO: _____

CHAPTER: _____

DEBTOR.

ORDER AUTHORIZING ABANDONMENT OF PROPERTY

This proceeding comes before the court on the application of the party named below for the authority to abandon the estate's interest in the below-described property.

The court has been informed that all parties in interest have been notified of the applicant's desire to have the estate's interest abandoned in said property, and that no objection to the proposed abandonment has been received or filed by any party in the office of the clerk of this court. The applicant has represented to the court that abandonment is in the best interest of creditors and the estate. It is, therefore,

ORDERED, ADJUDGED, AND DECREED, that the below-described property shall be deemed abandoned from the estate.

PROPERTY ABANDONED: (specific legal description, includes identification numbers of all property where obtainable, vehicle I.D. numbers, serial numbers, real estate legal description, etc.)

United States Bankruptcy Judge

Date: _____

THE APPLICANT:

Signature of Movant

Typed/Printed Name/Address/Telephone

District Court I.D. Number

Date: _____

LOCAL OFFICIAL FORM 6007-1(c) TO SC LBR 6007-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

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CASE NO: _____

CHAPTER: _____

DEBTOR.

CONSENT ORDER AUTHORIZING ABANDONMENT OF PROPERTY AND MODIFYING STAY (FOLLOWING SERVICE OF
APPLICATION FOR ABANDONMENT OF PROPERTY)

This proceeding comes before the court on the application of the parties named below for the authority to abandon the estate's interest in the below-described property.

It appearing from the signatures below that the parties agree that the secured creditor has a perfected security interest in the estate's interest in the property described below; that the estate claims no equity in the property; that the debtor and the trustee do not object to an abandonment of the property and a modification of the automatic stay provided by 11 U.S.C. § 362 as to the property; and that all parties in interest have been notified of the applicant's desire to have the estate's interest abandoned in such property, and that no objection to the proposed abandonment has been received or filed by any party in the office of the clerk of this court. It is therefore

ORDERED, ADJUDGED, AND DECREED, that the below-described property shall be deemed abandoned from the estate. The automatic stay is modified to permit the secured creditor to pursue nonbankruptcy remedies against the property.

PROPERTY ABANDONED: (specific legal description, includes identification numbers of all property where obtainable, vehicle I.D. numbers, serial numbers, real estate legal description, etc.)

United States Bankruptcy Judge

Date: _____

FOR THE APPLICATION:

Signature of the Attorney for the Creditor

Typed/Printed Name/Address/Telephone

District Court I.D. Number

Signature of the Attorney for the Debtor

Typed/Printed Name/Address/Telephone

District Court I.D. Number

Signature of Trustee

Typed/Printed Name/Address/Telephone

District Court I.D. Number

LOCAL OFFICIAL FORM 6007-1(d) TO SC LBR 6007-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

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CASE NO: _____

CHAPTER: _____

DEBTOR.

CONSENT ORDER AUTHORIZING ABANDONMENT OF PROPERTY AND MODIFYING STAY (FOLLOWING
ANNOUNCEMENT OF ABANDONMENT AT 11 U.S.C. § 341 MEETING OF CREDITORS)

It appearing from the signatures below that the parties agree that the secured creditor has a perfected security interest in the estate's interest in the property described below; that the estate claims no equity in the property; that the debtor and the trustee do not object to an abandonment of the property and a modification of the automatic stay provided by 11 U.S.C. § 362 as to the property; and that the trustee announced the abandonment of the property at the meeting of creditors held pursuant to 11 U.S.C. § 341 and that no objection to the abandonment was received or heard. It is therefore

ORDERED, ADJUDGED, AND DECREED, that the below-described property shall be deemed abandoned from the estate. The automatic stay is modified to permit the secured creditor to pursue nonbankruptcy remedies against the property.

PROPERTY ABANDONED: (specific legal description, includes identification numbers of all property where obtainable, vehicle I.D. numbers, serial numbers, real estate legal description, etc.)

United States Bankruptcy Judge

Date: _____

FOR THE APPLICATION:

Signature of the Attorney for the Creditor

Typed/Printed Name/Address/Telephone

District Court I.D. Number

Signature of the Attorney for the Debtor

Typed/Printed Name/Address/Telephone

District Court I.D. Number

Signature of Trustee

Typed/Printed Name/Address/Telephone

District Court I.D. Number

Date: _____

LOCAL OFFICIAL FORM 6007-1(e) TO SC LBR 6007-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

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CASE NO: _____

CHAPTER: _____

DEBTOR.

CERTIFICATE OF NO OBJECTION

The undersigned trustee does hereby certify to the court that (s)he announced at the meeting of creditors the abandonment of the property proposed to be abandoned in the attached order. The trustee further certifies that (s)he received no objection to the abandonment at the meeting of creditors.

Date: _____, _____

Signature of Trustee

Typed/Printed Name/Address/Telephone

District Court I.D. Number

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

DEBTOR.

130

LOCAL OFFICIAL FORM 9014-1 TO SC LBR 9014-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

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CASE NO: _____

CHAPTER: _____

DEBTOR.

CERTIFICATION OF NECESSITY FOR EMERGENCY HEARING

The undersigned, as a member of the bar of this court, and as attorney for _____ hereby certifies: (1) that (s)he has reviewed carefully the attached motion for an emergency, or expedited, hearing; (2) that (s)he believes that there is an urgent necessity for such hearing; and, (3) that his/her client will suffer irreparable damage (specify the nature of the damage) if such request is not granted and the hearing is scheduled in accordance with the routine application of relevant sections of the United States Bankruptcy Code and the Federal Rules of Bankruptcy Procedure.

The undersigned further certifies that the necessity for an emergency hearing has not been caused by any lack of due diligence on the part of the undersigned, or his/her client.

The undersigned further certifies: (1) that prior to the filing of the attached motion for emergency hearing (s)he has communicated, orally or in writing, with the other parties in interest to the underlying motion for _____ in a good faith attempt to resolve it without the necessity of an emergency hearing, and has been unsuccessful, or (2) that such attempt to resolve that motion could not be made timely, or (3) that such attempt would serve no useful purpose because _____, and (4) the irreparable harm is _____.

Date: _____, _____

Signature of Attorney

Typed/Printed Name/Address/Telephone

District Court I.D. Number

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

)

) **CASE NO:** _____

) **CHAPTER:** _____

)

) **NOTICE OF MOTION/**

) **APPLICATION AND**

) **OPPORTUNITY FOR HEARING**

)

132

LOCAL OFFICIAL FORM 9014-2(b) TO SC LBR 9014-2
UNITED STATES BANKRUPTCY COURT - DISTRICT OF SOUTH CAROLINA
MOTIONS/APPLICATIONS APPROVED FOR "PASSIVE" NOTICE
(Notice and Opportunity for Hearing)

1. Motion to dismiss by chapter 7 debtor
2. Motion to dismiss by chapter 11 debtor
3. Motion to avoid lien (chapters 7, 11 and 12)(SC LBR 4003-1)*
4. Motion to value collateral (chapters 7, 11 and 12)(SC LBR 3012-1)*
5. Motion to modify codebtor stay under 11 U.S.C. §1301
6. Trustee's or debtor's motion to sell, use or lease property (SC LBR 6004-1)*
7. Motion to abandon property (SC LBR 6007-1)*
8. Application for final decree and notice of filing final reports in chapter 11 case (SC LBR 2081-1)
9. Objection to proof of claim or interest in chapter 7 (asset and no asset) cases, chapter 13 cases and chapter 11 cases
10. Motion for moratorium on payments under chapter 12 and chapter 13
11. Motion to modify confirmed plan under chapter 12
12. Motion to change venue (SC LBR 1014-1)
13. Debtor's motion to convert a chapter 11 case to a chapter 12 or 13 case (unless case has previously been converted, in which event hearing will be scheduled)
14. Notice of agreement regarding modification of automatic stay, cash collateral, adequate protection, or obtaining credit pursuant to FRBP 4001(d) (SC LBR 4001-1)*
15. Motion to waive the requirements of filing monthly reports in chapter 11 cases (SC LBR 2015-1)
16. Applications for fees¹
17. Motion for approval of settlement or compromise of controversy pursuant to FRBP 9019 (SC LBR 9019-1)*
18. Application for payment of administrative claims or interests²
19. Debtor's motion to divide a joint case filed under 11 U.S.C. §302 into two separate cases (NOTE: If motion is granted, a filing fee equal to half the current filing fee for the chapter under which the joint case was commenced is due) (SC LBR 1015-1)
20. Motion for joint administration or consolidation or motion to separate a jointly administered case pursuant to FRBP 1015 (SC LBR 1015-1)
21. Motions by the debtor to assume or reject leases/executory contracts pursuant to 11 U.S.C. §365
22. Motions to Redeem in chapter 7 cases 11 U.S.C. § 722
23. Motion of Intent to Collect Child Support (SC LBR 4001.3)*
24. Motions to Reopen (SC LBR 5010-1)*
25. Motions to Incur Debt (Chapter 13 Cases) will apply to all Judges (effective October 1, 2000)
26. Trustee's Notice of Filings in Chapter 7 Asset Case
27. Trustee's Notice of Filing Final Report in Chapter 12 Case

¹ A summary of the application identifying the applicant and the amount requested must be incorporated into the notice (LOF 9014-2(a)). The application and proposed order are not required to be served on all creditors.

² Ibid.

28. Motions to Dismiss by Chapter 13 Trustee for Debtor's Failure to Make Plan Payments¹ (effective October 1, 2000)
29. Applications for employment on a contingency fee basis in chapter 7 and 11 cases (assigned to Judge Waites only)

* See Clerk's Instruction 9014-2

¹ The proposed order is not required to be served on all creditors by the trustee.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:)	
)	CHAPTER: _____
)	CASE NO.: _____
)	
DEBTOR.)	
)	(If applicable, use
)	adversary caption.)
PLAINTIFF)	
V.)	Adv. Pro. No. _____
)	
DEFENDANT.)	

TO: All Creditors and Parties in Interest

NOTICE AND APPLICATION FOR SETTLEMENT AND COMPROMISE

YOU ARE HEREBY NOTIFIED THAT THE (debtor, trustee, as applicable) is applying for approval of the following compromise or settlement.

TAKE FURTHER NOTICE that any response, return and/or objection to this application, should be filed with the Clerk of the Bankruptcy Court no later than *(enter number of days) days from service of motion/application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on _____, ____, at _____m., at _____, South Carolina. No further notice of this hearing will be given.

NATURE OF DISPUTE: (Specifically state the dispute between the parties.)

AMOUNT DISPUTED: (Specifically state the monetary amounts which are the subject of the dispute.)

PROPOSED SETTLEMENT OR COMPROMISE: (Summarize the proposed resolution of the dispute and enclose a copy of the consent order.)

BENEFIT TO THE ESTATE: (Specifically state the benefits to the estate as a result of the settlement. Include the amount of any monetary benefit to be received. Also include any risks to the estate which may result from the failure to accept the proposed settlement or compromise.)

MOVING PARTIES: (Specifically state the names and addresses and telephone numbers of the attorney for the debtor or trustee, as applicable, and any other party proposing the settlement.)

The (name of party) hereby certifies that the terms set out above are complete and have been agreed upon by the moving parties named herein. *[This paragraph to be used when all settling parties are not signing this notice and application.]*

WHEREFORE, the moving parties request the court issue an order authorizing the settlement and compromise and such other and further relief as may be proper.

(Name)
(Capacity)
(Address)
(Telephone Number)

Date: _____, _____

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UNITED STATES BANKRUPTCY COURT

SOUTH CAROLINA

Clerk's Instruction: Submission of the List of Creditors on Computer Diskette (CI-1007-1(a)¹)

(a) General Information

As part of the filing requirements set forth by the Federal Rules of Bankruptcy Procedure 1002, 1003 and 1007, the debtor shall file with the petition a mailing matrix alphabetically listing the name and address of each creditor shown on the schedules. The automated docketing system in this court provides for the computerized processing of creditors to enable a high volume of cases to be processed within limited time constraints. Creditors can be initially loaded into the computer database for each case in one of two ways: (1) "loading" the information from a 3 ½ " high-density disk supplied at the time of filing or (2) by "scanning" a hard (paper) copy mailing matrix supplied at the time of filing . Pursuant to South Carolina Local Bankruptcy Rule 1007-1 (SC LBR 1007-1), it is required that the list of creditors for cases filed in all chapters be submitted on disk in the proper format outlined in these instructions. The court no longer accepts a hard (paper) copy of the mailing matrix unless it is accompanied by a waiver (Local Official Form 1007-1(a) of SC LBR 1007-1). The waiver is intended to accommodate persons filing *pro se*. Mailing lists submitted incorrectly may be required to be resubmitted.

(b) Submitting Mailing Matrices on Disk

(1) **Disk Type:**

Must be a 3 ½ "disk in Microsoft DOS compatible format in any density up to 1.44MB.

(2) **File Requirements:**

- (A) each case must be submitted with a separate disk containing the creditors with their addresses; the system can only read one file per disk.
- (B) the file must be saved in a "pure text" format (see subsection **Text Format** on the following page).
- (C) the file must be located in the disk's root directory and named creditor.scn.

(3) **File Content:**

The creditor list should only include the specific creditors to that particular case. SC LBR 1007-1 previously required inclusion of an additional list of "special" creditors. Unless one of these "special" creditors is a specific creditor to that particular case, do not include them on the list. The court has software which will automatically add "specials". Also, do not add the debtor, joint

¹ See SC LBR 1007-1

debtor, attorney for debtor, case trustee or United States Trustee in the list of creditors since these will be added automatically.

(4) **Text Format:**

The creditor list saved as *creditor.scn* must be in ASCII , or “pure text” format in order for the court’s computer to read the data. All word processing packages have the capability of saving a word processing document as “pure text”. Any text editor such as the DOS editor (EDIT), most word processors such as WordPerfect or Microsoft Word are capable of producing the required output. (See subsection on **File Saving and Labeling Disk**).

(5) **Creditor Format:**

- (A) Must be typed in Courier 12 point font (10 cpi)
- (B) lists should be typed in a single column
- (C) each name and address must consist of no more than 5 (five) total lines of single spaced type
- (D) one blank line should appear between each creditor address
- (E) ZIP codes must be located on the same line as the city and state which should be the last line of the address
- (F) use ZIP +4 format with a hyphen between the fifth and the sixth number
- (G) each line must be 30 characters or less in length
- (H) if “attention” lines or account numbers are used, they should appear on the second line of the address, not on the last line
- (I) no headers, footers or page numbers should be used in the text
- (J) use all capital letters, no lower case
- (K) no punctuation should be used except for the hyphen in item (5) above

(6) **File Saving and Labeling Disk:**

- (A) After all creditors are typed, the file should be saved to a diskette in text format, not the word processor’s document format. The file name should be *creditor.scn*.

Examples for Microsoft Word or WordPerfect for Windows:

After the matrix has been typed, place a formatted diskette in the floppy drive and select the following items from the menu bar at the top of the window:

File

Save As...

Save File as Type: *(select one of the following type)*

MS-DOS Text or ASCII (DOS) Text

File Name: *(enter **creditor.scn** in the box below this item)*

Driyes:

A: *(or whatever is appropriate for your PC)*

OK *(left click the button one time with the mouse to complete saving the file)*

Examples for WordPerfect 5.1 for DOS

After the matrix has been typed, place a formatted diskette in the floppy drive and select the following keyboard commands.

<CTL>+f5 (hold the 'CTRL' key down and press the "f5" key) next
select

1 DOS Text next select

1 Save

Document to be saved (DOS Text): (enter the drive letter and file name:
'A:CREDITOR.SCN')

- (B) Do not write on a disk label with ballpoint pen because the disk may be damaged. Use a felt-tip pen or write lightly in pencil. The following information should be included on each disk submitted:

(i) name of submitting firm or practitioner

(ii) debtor's full name

(iii) the number of creditors on the disk

- (C) It is advisable to save a backup copy of the creditor file, either on the hard drive of the computer or a second diskette, in case another copy of the file is needed later.

(7) **Returning Disk:**

A used disk of comparable media will be traded for the submitted disk. If the filing takes place at the court window, the disk will be substituted immediately. If the filing takes place through the mail, the disk will be returned along with any extra copies of documents, provided that a self-addressed, stamped envelope was supplied. All disks that the court receives will be recycled and traded on an on-going basis. If it is imperative that the actual disk which you submitted be returned to you rather than a comparable disk, print "return this disk" on the label portion of the disk under your name as outlined in (b)(6) above.

(c) Submitting Certification Verifying Creditor Matrix

Pursuant to SC LBR 1007-1, every mailing matrix submitted must be accompanied with a Certification Verifying Creditor Matrix (see Local Official Form 1007-1(b)). The certification must meet the following requirements:

- (1) be signed by debtor or attorney for the debtor when applicable
- (2) if Local Official Form 1007-1(b) to this rule is not used, the certification must state "The above named debtor, or debtor's attorney if applicable, does hereby certify that the Master Mailing List of creditors, submitted on computer disk, has been compared to, and contains identical information to, the debtor's schedules, statements and lists pursuant to SC LBR 1007-1."

(d) Additional Certification Verifying Schedules and/or Statements

Schedules and/or statements submitted subsequent to a filing of the voluntary petition and matrix (an incomplete filing) must be accompanied by an additional certification. This certification must meet the following criteria:

- (1) be signed by debtor or attorney for the debtor when applicable
- (2) the certification must state “The above named debtor, or debtor’s attorney if applicable, does hereby certify that the schedules and/or statements contains an identical list of creditors as those previously submitted on computer disk”
- (3) the certification must state that no additional creditors have been included on the schedules and/or statements since the submission of the original creditor matrix.

If additional creditors have been added, refer to SC LBR 1009-1.

(e) Computer Virus Protection

The court has computer software which scans disks for viruses in order to prevent possible damage to court records as well as affording protection to those who request the return of disks from the court. Since new strains of computer viruses are regularly created, the court subscribes to a virus detection update service which allows us to detect the most recent computer viruses.

All computer users are strongly urged to ensure that safeguards exist in their offices to detect and eradicate current and future computer viruses. You should also be aware that whatever virus detection software you use must be updated regularly because old software will not detect new viruses.

NOTE:

Please refer to SC LBR 1007-1 and Local Official Form 1007-1(a) if a waiver to this rule is requested.

If the completed waiver is not accepted by the clerk’s office, you will be required to submit the mailing matrix on computer disk within forty-eight (48) hours. Any procedural or systems based questions with regard to these instructions may be directed to our Intake staff at 765-5436 (ext. 3045) who will connect you with the appropriate party.

**UNITED STATES BANKRUPTCY COURT
SOUTH CAROLINA**

**Clerk's Instruction: Submission of the List of Creditors on Hard
Copy in a Scannable Format (CI-1007-1(b)¹)**

(a) General Information

As part of the filing requirements set forth by the Federal Rules of Bankruptcy Procedure 1002, 1003 and 1007, the debtor shall file with the petition a mailing matrix alphabetically listing the name and address of each creditor shown on the schedules. The court no longer accepts a hard (paper) copy of the mailing matrix unless it is accompanied by a waiver (Local Official Form 1007-1(a) of South Carolina Local Bankruptcy Rule 1007-1(SC LBR 1007-1)). The waiver is intended to accommodate persons filing *pro se*. Mailing lists submitted incorrectly may be required to be resubmitted. In order to ensure that the hard (paper) copy matrix can be read by the Optical Scanner, the following instructions must be followed when preparing creditor lists.

(b) Preparing A Hard Copy Scannable Matrix

- (1) A matrix in the attached format must be used, and it must be typed in a single column format using one of the following three typing elements:

- (A) courier ten pitch
- (B) prestige elite
- (C) letter gothic

If you are using a 10 pitch element, be sure your typewriter or printer is set to 10 pitch, not 12 pitch.

- (2) Pursuant to United States Postal Service standards, the matrix should be typed in all capital letters with no punctuation. Use the standard two (2) letter abbreviation for states. Do not use periods to separate the state's initials. The address should include a 9-digit ZIP code with the hyphen between the fifth and sixth digit of the ZIP code.
- (3) DO NOT put attention lines or account numbers on the last line. Put these on the second line following the creditor's name.
- (4) No letter should be closer than 1 inch from any edge of the paper.
- (5) Each name and address must consist of no more than five (5) total lines, with at least TWO BLANK LINES between each name and address.
- (6) Each line must NOT exceed 40 characters in length.
- (7) DO NOT include the following parties on your matrix: debtor, joint debtor, attorney for the debtor, U.S. Trustee, U.S. Attorney, case trustee, Department of

¹ See SC LBR 1007-1

Revenue and Taxation, S.C. Employment Security Commission, City and County Tax Collectors. The court's system will automatically add these creditors to the matrix.

- (8) DO NOT put any other information on the matrix, such as a heading, date, lines and page numbers, etc.
- (9) DO NOT use onion skin, carbon, colored or erasable bond paper.
- (10) DO NOT print from dot matrix printers, worn out typewriters, or printers using a ribbon.
- (11) DO NOT use the letter "l" as a substitute for the number "1"
DO NOT use % as a substitute for c/o
DO NOT use \ as a substitute for /
DO NOT use +, use either "and" or &
DO NOT use ~ as a substitute for -
DO NOT use [] as a substitute for ()
- (12) **DO NOT STAPLE. DO NOT PUNCH HOLES.**

(c) Certification Verifying Creditor Matrix

Pursuant to SC LBR 1007-1, every mailing matrix submitted must be accompanied by a Certification Verifying Creditor Matrix. The certification must:

- (1) Be signed by debtor, or debtor's attorney when applicable.
- (2) Local Official Form 1007-1(b) of SC LBR 1007-1 or contain the following language:

"The above named debtor, or debtor's attorney if applicable, does hereby certify that the Master Mailing List of creditors, consisting of (# of sheets) sheet(s), has been compared to, and contains identical information to, the debtor's schedules, statements and lists pursuant to SC LBR 1007-1."

(d) Additional Certification Verifying Schedules and/or Statements

Schedules and/or statements submitted subsequent to a filing of the voluntary petition and matrix (an incomplete filing) must be accompanied by an additional certification. This certification must meet the following criteria:

- (1) be signed by debtor or attorney for the debtor when applicable
- (2) the certification must state "The above named debtor, or debtor's attorney if applicable, does hereby certify that the schedules and/or statements contains an identical list of creditors as those previously submitted on hard copy in a scannable format"
- (3) the certification must state that no additional creditors have been included on the schedules and/or statements since the submission of the original creditor matrix.

If additional creditors have been added, refer to SC LBR 1009-1.

UNITED STATES BANKRUPTCY COURT

SOUTH CAROLINA

Clerk's Instruction: Debtor's Claim for Property Exemption (CI-1007-2¹)

General Information

An individual debtor may list any property claimed as exempt using Local Official Form 1007-2, to these instructions. If Local Official Form 1007-2 is used, it shall be attached as an exhibit to Official Bankruptcy Form B6C (Schedule C- Property Claimed as Exempt).

Local Official Form 1007-2 lists the property which may be claimed as exempt by a debtor pursuant to 11 U.S.C. § 522(b)(2), § 15-41-30 of the Code of Laws of South Carolina and such other state and federal exemptions statutes as are applicable in bankruptcy cases. It is provided as an option to Official Form B6C to assist debtors and debtors' attorneys in accurately completing Official Bankruptcy Form B6C.

Local Official Form 1007-2 is not a substitute for legal advice, nor is it a substitute for any of the requirements of the United States Code, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure or the South Carolina Local Bankruptcy Rules.

The information contained in Local Official Form 1007-2 was current as of the date of its preparation (May 17, 1999). Any amendments or changes to the federal and state laws as they apply to exemptions since May 17, 1999, will not be reflected in Local Official Form 1007-2.

¹ See SC LBR 1007-2

UNITED STATES BANKRUPTCY COURT

SOUTH CAROLINA

Clerk's Instruction: Notices to Creditors (CI-2002-1¹)

Notice Requirements.

Pursuant to Federal Rule of Bankruptcy Procedure 2002(m), and in accordance with the Guidelines on Noticing promulgated by the Judicial Conference of the United States, notice of a hearing or of an opportunity for a hearing upon request, shall be provided as follows:

(a) IN A CHAPTER 13 CASE

(1) By the Trustee

- (A) Trustee's objection to a claim.
- (B) Trustee's petition to dismiss.
- (C) Trustee's notice of final report and account.
- (D) Trustee's motion to reopen case.

(2) By the Debtor

- (A) Debtor's motion to change venue.
- (B) Debtor's motion to reopen case.
- (C) Debtor's motion to modify confirmed plan.
- (D) Debtor's motion to incur secured debt.
- (E) Debtor's motion to extend time under South Carolina Local Bankruptcy Rule 1007-2 (SC LBR 1007-2).
- (F) Notice of continued or rescheduled first meeting.

(3) By a Creditor

- (A) Creditor's motion to change venue.
- (B) Creditor's motion to dismiss, or in the alternative, to convert.
- (C) Creditor's motion to reopen case.

¹See SC LBR 2002-1

(b) IN A CHAPTER 12 CASE

(1) By the Trustee

- (A) Trustee's notice of final report and account.
- (B) Trustee's objection to claim.
- (C) Trustee's petition to dismiss.
- (D) Trustee's motion to reopen case.

(2) By the Debtor

- (A) Debtor's motion to obtain credit.
- (B) Debtor's motion to change venue.
- (C) Debtor's motion to reopen case.
- (D) Debtor's motion to extend time under SC LBR 1007-2 or to extend the period during which a plan may be filed.
- (E) Notice of preconfirmation conference and confirmation hearing (a copy of the plan and all Local Official Forms should be attached).
- (F) Debtor's motion to modify a confirmed plan.
- (G) Debtor's motion to sell property free and clear of lien.
- (H) Debtor's request for waiver of requirement to file monthly reports.
- (I) Debtor's objection to claim.
- (J) Debtor's motion to abandon property.
- (K) Notice of continued or rescheduled first meeting.

(3) By a Creditor

- (A) Creditor's motion to dismiss or, in the alternative, to convert.
- (B) Creditor's motion to change venue.
- (C) Creditor's motion to reopen case.

(c) IN A CHAPTER 7 CASE

(1) By the Trustee

- (A) Trustee's notice to sell, use or lease property.
- (B) Trustee's motion to compromise a controversy.
- (C) Notice of filings with the court (Chapter 7 Asset Cases Only).
- (D) Trustee's objections to claims (Chapter 7 Asset Cases Only).
- (E) Notice to file claims (Chapter 7 Asset Cases Only).
- (F) Motion to shorten mailing matrix.
- (G) Trustee's motion to reopen case.

(2) By the Debtor

- (A) Debtor's motion to extend time under SC LBR 1007-2.
- (B) Notice of continued or rescheduled first meeting.
- (C) Debtor's motion to reopen case.
- (D) Debtor's motion to redeem property.

(3) By a Creditor

- (A) Creditor's motion to dismiss.
- (B) Creditor's motion to change venue.
- (C) Creditor's motion to reopen case.
- (D) Creditor's motion to abandon property.
- (E) Creditor's motion to allow claim.

(d) IN A CHAPTER 11 CASE

(1) By the Debtor

- (A) Notice of Meeting of Creditors.
- (B) Debtor's motion to use cash collateral pursuant.
- (C) Debtor's request for waiver of requirement to file monthly reports.
- (D) Debtor's request for extension of exclusive period within which the debtor may file a disclosure statement and/or plan of reorganization.
- (E) Debtor's motion to obtain credit.
- (F) Debtor's objection to a claim.
- (G) Debtor's motion to change venue.
- (H) Debtor's motion to reopen case.
- (I) Debtor's motion to abandon property.
- (J) Debtor's motion for approval of an agreement relating to relief from the automatic stay, providing adequate protection, use of cash collateral and obtaining credit.
- (K) Debtor's motion for assumption or rejection of an executory contract or unexpired lease.
- (L) Debtor's motion to extend time under SC LBR 1007-2.
- (M) Notice of continued or rescheduled first meeting.
- (N) Motion to shorten mailing matrix.

(2) By a Plan Proponent

- (A) A disclosure statement.
- (B) A plan of reorganization.
- (C) An application for final decree.

(3) By a Creditor

- (A) Creditor's motion to dismiss or to convert.

- (B) Creditor's motion for assumption or rejection of an executory contract or unexpired lease.
- (C) Creditor's motion for approval of an agreement relating to relief from the automatic stay, providing adequate protection, use of cash collateral and obtaining credit.
- (D) Creditor's motion to change venue.
- (E) Creditor's motion to reopen case.
- (F) Creditor's motion to abandon property.

(e) IN ALL CHAPTERS

(1) By the Proponent

- (A) Notice regarding a matter listed on the passive notice list.
- (B) Applications to employ professionals *nunc pro tunc*.

Inspection of Mailing Labels.

When a person orders mailing lists or labels from the clerk's office or from a chapter 13 trustee's office for the purpose of giving notice, that person must inspect them to ensure that all parties required to receive notice are included thereon.

New Mailing Lists.

Because mailing lists change as a result of notices of appearance, claims or other documents being filed which effect the parties and the addresses on the lists, a party must request new mailing lists or labels from the clerk's office each time any documents are served on the full mailing matrix.

Form of Notices.

Parties should utilize the appropriate Local Official Forms when performing noticing functions which are available on the court's Internet web site at www.scb.uscourts.gov, on PACER Classic and are available at the Intake Division of the clerk's office.

UNITED STATES BANKRUPTCY COURT

SOUTH CAROLINA

Clerk's Instruction: Disposition of Unclaimed Dividends (CI- 3011-1¹)

The procedures to be followed by any creditor or party seeking release of funds deposited in the United States Treasury by the court pursuant to 11 U.S.C. § 347(a) are as follows:

The creditor or party shall file simultaneously with the clerk of this court the following:

- (a) Identification Form for Unclaimed Dividend (Note: there are two forms-one for an individual and one for a corporation/business). See Local Official Forms 3011-1(a) and 3011-1(b)
- (b) Motion for Payment of Unclaimed Dividend with Certificate of Service. See Local Official Form 3011-1(c) ; and
- (c) Order for Payment of Unclaimed Dividend. See Local Official Form 3011-1(d).

(1) Requirements for *Pro Se* Creditor/Claimant; Self Representation.

(A) A motion for payment of an unclaimed dividend must be filed with the clerk. The motion must be accompanied by a certificate signed by the creditor/claimant reflecting that the motion was served on the United States Attorney for the District of South Carolina, 1441 Main Street, Suite 500, Columbia, South Carolina 29201, as required by 28 U.S.C. § 2042, and on the United States Trustee, 1201 Main Street, Suite 2440, Columbia, South Carolina 29201. The motion must state: (1) the name, address, telephone number of the creditor/claimant and a brief history of the creditor/claimant from the filing of the claim to the date of the motion (to establish possible reasons why the fund was not deliverable at the time of original distribution); (2) whether the creditor/claimant believes that any other party may be entitled to the fund; and (3) whether the claim has been assigned to the creditor/claimant. The motion must be accompanied by copies of all documents evidencing any assignment of the claim.

(B) If the creditor/claimant is:

- (i) an individual not personally appearing before the clerk or the clerk's authorized designee, the motion must be accompanied by a certificate of a notary public, which bears the seal of the notary, that the notary has examined the motion and documents presented by the creditor/claimant

¹See SC LBR 3011-1

establishing the creditor/claimant's identity, such as a birth certificate, an unexpired passport, a valid driver's license, or an original social security card;

- (ii) a representative of the estate of a deceased claimant not appearing before the clerk or the clerk's authorized designee, the motion must be accompanied by a certificate of a notary public, which bears the seal of the notary, that the notary has examined the motion and documents presented by the representative establishing the representative's identity, and the motion must also be accompanied by copies of probate documents establishing the representative's right to act on behalf of the decedent's estate;
- (iii) a corporation or partnership, the motion must be accompanied by an affidavit of a duly authorized corporate officer (if a corporation) or a general partner (if a partnership) certifying that the representative signing the motion is a duly authorized representative of the corporation or partnership. If the creditor/claimant is a successor corporation or partnership, the creditor/claimant shall attach to the motion copies of documents establishing the derivation of the creditor/claimant's entitlement to receive the proceeds of the claim.

(2) Requirements for Any Other Individual Representing the Interests of a Creditor/Claimant.

- (A) The representative must be an attorney admitted to practice in accordance with South Carolina Local Bankruptcy Rule 9010-1 and Local Rule 83.I.01 of the Local Rules of the United States District Court for the District of South Carolina.
- (B) The attorney must file a motion with the court for an order authorizing return of an unclaimed dividend as prescribed by Federal Rule of Bankruptcy Procedure 9013.
- (C) The motion must contain the name, address, and telephone number of the creditor/claimant and brief history of the creditor from the filing of the claim to the date of the filing of the motion (to establish possible reasons why the fund was not deliverable at the time of original distribution). If applicable, proof of any sale of the company, new and prior owners and a copy of the terms of any purchase agreement or stipulation by prior and new owners of right of ownership to the unclaimed fund must be provided. If the claim has been assigned to the creditor/claimant, copies of all documents evidencing assignment must be appended to the motion. The motion must state whether or not the moving party believes that any other party may be entitled to the fund.

The motion must be accompanied by a certificate of mailing reflecting that the motion was served on the United States Attorney for the District of South Carolina, 1441 Main Street, Suite 500, Columbia, South Carolina 29201, as required by 28 U.S.C. § 2042, and on the United States Trustee, 1201 Main Street, Suite 2440, Columbia, South Carolina 29201.

- (D) An original power of attorney from the creditor/claimant authorizing the attorney to represent the interests of the creditor/claimant must be attached to the motion.

(3) **Action on motion.**

If no objections are filed with the court within twenty (20) days after the filing of the motion, the motion and accompanying documents will be submitted to the court for determination. If an objection is timely filed with the court, the motion and objection will be forwarded to the court for either scheduling a hearing or making a determination on the motion. If the motion and accompanying documents are not properly executed, and the procedures and requirements outlined above are not met, the court may deny the motion pursuant to SC LBR 3011-1.

UNITED STATES BANKRUPTCY COURT

SOUTH CAROLINA

Clerk's Instruction: Proceedings to Modify Stay (CI-4001-1¹)

(a) Section 362 Relief from the Automatic Stay Motions

Hearing dates and locations for scheduling § 362 motions are posted on the court's Internet web site at www.uscourts.gov, on PACER Classic and are available from the Intake Division of the Clerk's Office.

The moving party must:

- (1) Select a Hearing Date: The moving party must select a hearing date from a list of available dates provided by the clerk and must:
 - (A) Schedule the motion in all cases, if it is made in a Columbia Division case, in Columbia before the judge assigned to the case, absent conflict;
 - (B) Schedule the motion in chapters 7, 12 and 13 cases, if it is made in a Charleston or Spartanburg Division case, in the same division as the case; the motion may be scheduled before any judge assigned to sit in that division;
 - (C) Schedule the motion in chapter 11 cases, if it is made in a Charleston or Spartanburg Division case, in the same division as the case and before the judge assigned to the case, absent conflict (see also, paragraph (a)(3) (A) following);
 - (D) Prepare a hearing notice (Local Official Form 4001-1(b) of South Carolina Local Rule Bankruptcy Rule 4001-1 (SC LBR 4001-1)) and indicate the date, time of hearing and hearing location. The hearing notice shall be signed by the attorney representing the movant or by the movant only, if *pro se*.

If the moving party selects a hearing date which is more than 30 days after the moving party makes its request for relief, the moving party is deemed to have consented to a waiver of its rights under § 362(e) relating to the automatic lifting of the stay. The stay remains in effect until further order of the court.

If the moving party fails to select a hearing date, the moving party shall be deemed to have waived the automatic lifting of the stay pursuant to § 362(e) and the court may, in its discretion, either schedule a hearing on the motion or deny the relief sought.

- (2) Serve and Transmit the § 362 Motion: At least fifteen (15) days prior to the scheduled hearing date, the moving party must serve on at least the debtor, attorney for the debtor, any trustee serving

¹ See SC LBR 4001-1

the case, the United States Trustee if a chapter 11 case, any committee elected or appointed in the case, and any other party in interest entitled to notice pursuant to Federal Rule of Bankruptcy Procedure 4001(a) (Fed. R. Bankr. P. 4001(a)):

- (A) the § 362 motion;
- (B) the notice of hearing of the motion (notice should indicate the date, time and location of hearing)(Local Official Form 4001-1(a));
- (C) the moving party's certification of facts (Local Official Form 4001-1(b));
- (D) a blank certification of facts (applicable to service on *pro se* parties only);
- (E) a certificate of service of items a-d.

Note: The motion must be accompanied by a fee prescribed by 28 U.S.C. § 1930(b) and the appendix thereto. **The moving party should determine if the case has been dismissed or closed prior to filing these documents; filing fees will not be refunded for motions filed in dismissed or closed cases.**

(3) Please take notice that if the movant:

- (A) requires a hearing date within the thirty (30) day period before a specific judge (Ch. 11's), and the judge assigned to the case is not scheduled for that city within that time, the movant must contact a courtroom deputy clerk for assistance which may include scheduling the motion for hearing in Columbia, if deemed necessary;
- (B) is aware of another matter in the case previously scheduled, and the movant has selected a § 362 hearing date which is in close proximity (the day before or the day following), the movant may contact a courtroom deputy clerk as indicated above and inquire as to whether or not the § 362 motion can be heard at the same date and time;
- (C) is filing a multi-part motion (§ 362 motion which contains alternative relief i.e., dismissal, conversion), the above procedure applies to noticing the § 362 motion only. Hearing notices and/or hearing dates on the alternative relief must be prepared using the passive notice procedure prescribed by SC LBR 9014-2 and the accompanying "Clerk's Instruction: Motions (Passive Notice) (CI-9014-2)"¹ or must be obtained from the clerk's office for matters not on the Passive Notice List;
- (D) is unable to select a hearing date which is at least fifteen (15) days from the date of the service/transmittal of the motion for relief from, or modification of, the automatic stay, and it is necessary that the hearing be held within thirty (30) days from the request to lift the stay, the movant may shorten the service/transmittal time frame outlined in "b" of SC LBR 4001-1 and the objection time outlined in "d" of SC LBR 4001-1. If the movant is still unable to select a hearing date under these shortened time frames, the movant must communicate this to the judge's staff.

¹ Clerk's Instructions are available on the court's Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk's office.

(b) Consent Agreements

A motion for the approval of an agreement pursuant to Fed. R. Bankr. P. 4001(d) should be prepared using the form approved by the court (Local Official Form 4001-4) of SC LBR 4001-4.

If a debtor fails to comply with the terms of a consent order, which provides for the modification of the 11 U.S.C. § 362 stay, the moving party, who seeks relief from the stay, shall submit a certification of the debtor's noncompliance and a proposed order granting the relief sought. Modification of the stay is effective only upon entry of the order.

(c) Section 1301 Co-Debtor Motions

The movant must:

- (1) Serve and transmit the Motion: The movant should prepare and serve the motion and passive notice of motion giving parties twenty (20) days to object using the form approved by the court (Local Official Form 9014-2(a) of SC LBR 4001-1). The moving party should list the co-debtor in the motion. The moving party should serve on at least the debtor, attorney for the debtor, the trustee, if one is appointed, the co-debtor and any other interested party entitled to notice pursuant to Bankruptcy Rule 4001(a), and simultaneously transmit to the clerk of court for filing:
 - (A) the § 1301 motion;
 - (B) the passive notice of motion which gives parties twenty (20) days to object; and
 - (C) a certificate of service of items (a) and (b).
- (2) Objections: Within twenty (20) days after service of (a) and (b) above on the other parties in interest, each objecting party should serve on the moving party and file with the clerk its objection to the motion and certification of such service.

(d) Conflicts

Operating Order 00-3 of this court, filed July 17, 2000 provides that when a § 362 motion is filed that involves a judge's conflict:

- (1) A case in which Chief Judge Wm. Thurmond Bishop has a conflict is to be assigned to Judge John E. Waites;
- (2) A case in which Judge John E. Waites has a conflict is to be assigned to Chief Judge Wm. Thurmond Bishop.

UNITED STATES BANKRUPTCY COURT

SOUTH CAROLINA

Clerk's Instruction: Automation Services (CI-5001-1¹)

The United States Bankruptcy Court for the District of South Carolina has a number of automated services for public access to court records and these are regularly being updated and enhanced.

The current Voice Case Information System (VCIS) and Public Access to Court Electronic Records (PACER a/k/a "PACER Classic") remain as they always have. There is no access fee for VCIS; the \$.60 per minute access fee for PACER Classic remains in effect.

During calendar year 1999, two new Internet based services were introduced. The first, www.scb.uscourts.gov is a free site (has no access fee by the judiciary). This site contains information about the court, court calendars, local rules, official forms, clerk's instructions, etc.

The second Internet based service, WEB PACER, (<http://pacer.scb.uscourts.gov>) offers similar functionality to the current PACER Classic system, but uses a web browser over the Internet. This system provides the ability for you to download case image documents. This site charges an access fee of .07 cents per page².

The Administrative Office of the US Courts is currently phasing in a new case management system to the courts. This system is called Case Management/Electronic Case Files, or CM/ECF. This new system will have many new benefits. You will be able to file cases and documents from your office 24 hours a day. Once this court implements CM/ECF, PACER Classic will be discontinued, so you should begin to plan for Internet access in your office if you do not already have it. We will release more information on CM/ECF through Public Notices.

¹ See SC LBR 5001-1 (This document replaces forms B-212:11/30/93 and B-213:7/3/97)

² The \$.07 per page rate was calculated so that, if the same PACER activities were performed on an Internet connection as on PACER Classic dial-up connection, the total charges for each connection, on average, would be the same or less.

Pacer Classic

Pacer (Public Access to Court Electronic Records) allows you to retrieve electronic docket summaries using your computer or terminal modem (up to 33.6K baud) in your office or home virtually 24 hours a day.

You can search for a case by participant name or case number. Once you find the case you want, you can have all the basic case information and a listing of the case docket entries. You can track the progress of a case in seconds.

All case information entered during the day is updated into PACER that night. Case information for active and recently closed cases is available, without making telephone calls or trips to the court.

PACER FEATURES

Access to daily case report of new bankruptcy filings
PACER/Court News
Retrieve official registry of claims/interests for a case
View docket entries in reverse chronological order
Select, if desired, only a portion of lengthy docketed cases
Access to archived case summary information
Public Notices and Operating Orders
362 and Passive Notice Calendars
Previous Month's Closed and Reopened Cases Report

We encourage you to consider registering for PACER. It will save much time and will permit you to "track" a case on your own PC. You will be able to determine whether an order you are interested in has been docketed -- if not, you can check again the next day.

The cost for this service is .60 per minute (established by the Judicial Conference of the United States) -- you should be able to download 3-4 cases from PACER per minute. To register, contact: PACER Billing Center, PO Box 780549, San Antonio, Texas 78278-0549 (telephone: 1-800-676-6856). You will receive your PACER system Login ID and Password, billing information and PACER User Documentation directly from the Billing Center.

PACER is available at many appellate, district and bankruptcy courts -- a list of those courts and access telephone numbers is available from the Intake Division of the clerk's office. Billing procedures vary and in some courts there is currently no charge for PACER.

This service will be discontinued with the implementation of CM/ECF.

Requirements

Personal Computer
Modem
Communications Software (Hyperterminal, PCAnywhere, ProComm, etc)
PACER Account (available from San Antonio Billing Center 800-676-6856)

Cost

0.60 cents per minute

NOTE: This service will be discontinued with the implementation of CM/ECF.

Web Pacer

Accessible via the World Wide Web at <http://pacer.scb.uscourts.gov>

This service utilizes the same login and password as your PACER Classic account.

Features

Case Information

Summary	Docket Sheet	DOCUMENT IMAGES!
Case Status	Parties	Deadlines/Schedules

New Cases Report

User selectable date range

Mailing Matrices

Previous Month's Filed, Closed and Reopened Cases Report

Requirements

PC with Windows 95+ or NT

PACER Account (available from San Antonio Billing Center 800-676-6856 or <http://pacer.psc.uscourts.gov>)

Internet Access

Web Browser (such as Netscape or Internet Explorer)

Cost

.07 cents per page

Internet Web Site

Accessible via the world wide web at www.scb.uscourts.gov

Features

Local Rules

Clerk's Instructions

Attorney Desk Reference Manual

Judge's Opinions

Court Info (Phone Numbers, Clerks Instructions, etc)

Judge's Court Calendar

362 Motions Calendar

Passive Notice Calendar

Downloads (Adobe Reader, Forms, Reference Manuals, etc)

Requirements

PC with Windows 95+ or NT

Internet Access

Web Browser (such as Netscape or Internet Explorer)

Cost

Free

VCIS (Voice Case Information System)

Bankruptcy case information available using touch tone phone. You may search for information by Case Number, Party Name, or SSN/Tax ID.

803-765-5211 or 1-800-669-8767

Features

Case Name(s)	Case Number	Bankruptcy Chapter
Filing Date	Asset Status	Attorney for Debtor
Name of Trustee	Name of Judge	Current Case Status
Next Hearing Info	Discharge Date	Closing Date

Requirements Touch tone phone

Cost Free

INSTRUCTIONS FOR USING
VOICE CASE INFORMATION SYSTEM
(VCIS)

- a.** DIAL (803) 765-5211 or 1-800-669-8767 for VCIS for the United States Bankruptcy Court for the District of South Carolina.
- b.** ENTER THE NAME of the debtor or a party to an adversary proceeding.

Names are given to the computer by pressing the keys on a touch-tone type telephone that correspond to the letters in the name. Use the "1" key for the letters "Q" and "Z", and skip any characters that are not letters, such as spaces, apostrophes, and dashes.

1. If the case is filed by an individual, enter the last name followed by the first name. For example, to enter the "Joe O'Riley", the following keys should be pressed:

O R I L E Y J O E
+))) , +))) , +))) , +))) , +))) , +))) , +))) , +))) , +))) , +))) ,
MNO *PRS* *GHI* *JKL* *DEF* *WXY* *JKL* *MNO* *DEF* * # *
* 6 * * 7 * * 4 * * 5 * * 3 * * 9 * * 5 * * 6 * * 3 * * *
.))) - .))) - .))) - .))) - .))) - .))) - .))) - .))) - .))) - .))) -

2. If the case is filed by a business, enter the business or company name. Suffixes such as "Inc." or "Corp." should be omitted. For example, to enter the name "Joe's Subs, Inc.", the following keys should be pressed:

J O E S S U B S
+))) , +))) , +))) , +))) , +))) , +))) , +))) , +))) , +))) , +))) ,
JKL *MNO* *DEF* *PRS* *PRS* *TUV* *ABC* *PRS* * # *
* 5 * * 6 * * 3 * * 7 * * 7 * * 8 * * 2 * * 7 * * *
.))) - .))) - .))) - .))) - .))) - .))) - .))) - .))) - .))) - .))) -

- c.** PRESS THE # KEY to tell the computer that you have finished entering the name.
- d.** LISTEN and the computer will read information about the case. If more than one case is found which matches the name entered, information will be ready about each case. If the caller is not interested in the case being read, any key may be pressed to go the next case.
- e.** If a user knows the procedures to follow, the user can go directly to a name search without listening to the full instructions-- touch 1 for VCIS help; touch 2 for searching cases on VCIS, touch 3 for information about PACER (Public Access to Court Electronic Records).

UNITED STATES BANKRUPTCY COURT

SOUTH CAROLINA

Clerk's Instruction: Filing of Documents in Clerk's Office (CI-5005-1¹)

All papers, including proposed orders, shall be filed with or submitted to the clerk's office, rather than directly to a bankruptcy judge. In an emergency after office hours, papers may be filed by making prior arrangements to do so during public business hours by contacting the clerk or chief deputy. The clerk's office shall perform any necessary processing of papers before forwarding the papers to a bankruptcy judge for consideration.

Filing of documents in the United States Bankruptcy Court may be made at the clerk's office from 9:00 A.M. to 4:30 P.M. on all days except Saturdays, Sundays, the legal holidays listed in Federal Rules of Bankruptcy Procedure 9006(a) (Fed. R. Bankr. P. 9006(a)), and other times as may be ordered by the court. Personnel specifically assigned to receive petitions and documents are required to verify that certain rules and requirements have been met.

Should expedited processing of papers be required during a term of court in a division of the district not regularly staffed by the clerk, the court may, upon a showing of compelling need by a party, direct the courtroom deputy clerk to file a judgment, final order or other paper. The party requesting such action shall arrange for prompt service of the paper and shall execute and deliver a certificate of service to the courtroom deputy clerk at the time of filing.

The clerk will not accept for filing any petition or document not accompanied by the filing fee prescribed by 28 U.S.C. § 1930 and the Appendix thereto (Bankruptcy Court Miscellaneous Fee Schedule).

The following criteria regarding the form of documents presented for filing with this court must be met. Should documents submitted for filing not meet the following criteria or not contain the following information, the court may issue an Order Returning Document(s) or an Order Striking Document(s). (See South Carolina Local Bankruptcy Rule 5005-1 (SC LBR 5005-1)).

(a) All Documents.

- (1) If a copy acknowledging receipt or filing is desired, an extra copy must be provided (in addition to the numbers indicated under the subsections of this instruction) along with a stamped, self-addressed envelope (an envelope large enough to accommodate the return copies).
- (2) The signature of the attorney must always be followed by his/her District Court I.D. number, printed, (or typed) name, address, telephone number and facsimile number.
- (3) All signatures of creditors must be followed by his/her typed or printed name and address.

¹See SC LBR 5005-1

- (4) All documents must show the case name, case number with judge's initials and chapter.

(b) Bankruptcy Petitions.

- (1) Filing Fee to be paid (28 U.S.C. § 1930(a)):

Total fees (including administrative fee and trustee surcharge fee):

(A)	Chapter 7	\$ 200.00
(B)	Chapter 9	\$ 830.00
(C)	Chapter 11	\$ 830.00
(D)	Chapter 11 Railroad	\$1,030.00
(E)	Chapter 12	\$ 230.00
(F)	Chapter 13	\$ 185.00

Installment payments are authorized only in voluntary cases filed by an individual.

Note: If paid in installments, the filing fee must be paid in full before any payment is made to an attorney or other person rendering services to the debtor in connection with the case. (Fed. R. Bankr. P. 1006(b)(3)).

- (2) An administrative fee of \$30.00 is required to be paid simultaneously with the filing of the petition in chapter 7, 9, 11, 12 and 13 cases; and a trustee surcharge fee of \$15.00 is required to be paid simultaneously with the filing of the petition in chapter 7 cases. (28 U.S.C. § 1930(b)).
- (3) The chapter number under which the petition is filed (7, 9, 11, 12 or 13) must be specified.
- (4) The address of the debtor must be specified, and the social security number and tax identification number (if one is assigned) of the debtor must be specified. (Fed. R. Bankr. P. 1005).
- (5) All petitions must be submitted with a mailing matrix in accordance with SC LBR 1007-1.
- (6) In chapter 11 cases, a list of the twenty (20) largest unsecured creditors must be submitted (Fed. R. Bankr. P. 1007(d)).
- (7) The signature of the petitioner must be on the original petition. (Unless power of attorney is used, see SC LBR 1002-1) (Fed. R. Bankr. P. 1008).

- (8) The requisite number of copies of all petitions is:
- (A) Chapter 7 - an original and two copies
 - (B) Chapter 9 - an original and five copies
 - (C) Chapter 11 - an original and four copies
 - (D) Chapter 12 - an original and three copies
 - (E) Chapter 13 - an original and one copy
- (9) The original petition and all copies thereof in all cases shall include the attorney disclosure statement of compensation. (Fed. R. Bankr. P. 2016(b)).
- (10) A single petition in the name of both an individual and a corporation or one in the name of two or more corporations shall not be submitted for filing. Separate petitions must be filed for each separate legal entity, and appropriate motions to consolidate made in accordance with Fed. R. Bankr. P. 1015. (The only joint case authorized under the United States Bankruptcy Code is that of a husband and wife filing a joint petition (11 U.S.C. § 302)).
- (11) A voluntary petition or consent to an involuntary petition filed by a corporation shall be accompanied by a copy of the corporate resolution or other appropriate authorization, duly attested to, authorizing such filing.

(c) Conversions.

- (1) Pursuant to 28 U.S.C. § 1930(b) a \$15 trustee surcharge fee is due:
- (A) By the debtor when filing a notice of conversion of a Chapter 11, 12 or a chapter 13 case to chapter 7.
 - (B) By the movant when filing a motion for conversion to a case to a chapter 7.
- (2) Pursuant to 28 U.S.C. § 1930(b) for converting on request of the debtor a case under chapter 7 or 13 to a case under chapter 11, the debtor shall pay a fee of \$645.00 which is due within forty-eight hours (48) of the signing of the order granting the conversion.

(d) Proofs of Claim or Interest.

- (1) Number of copies:
- (A) Chapter 7, 9, 11 and 12 - original only
 - (B) Chapter 13 - original and one copy
- (2) The signature of the claimant must be on the original claim.

- (3) The amount of the claim must be specified.
 - (4) The case name, case number (which includes judge's initials), trustee's initials, and chapter under which the bankruptcy case is filed (7, 9, 11, 12 and 13) must be specified on the form.
- (e) Adversary Proceedings.
- (1) An original and two copies of all documents must be filed.

- (2) Signature of attorney for plaintiff/defendant must be on original documents.
 - (3) The chapter under which the bankruptcy case is filed must be specified.
 - (4) In chapter 7 or 13 cases, a filing fee of \$150.00 must accompany the complaint unless it is filed by the debtor or trustee.¹
 - (5) In chapter 11 cases, a filing fee of \$150.00 must accompany the complaint.²
 - (6) The adversary proceeding cover sheet must accompany the complaint.
 - (7) The original complaint shall contain the bankruptcy case number. All subsequent documents shall, in addition, contain the adversary proceeding number.
- (f)** 11 U.S.C. § 362 Motions.
- (1) An original of the document must be filed.
 - (2) Signature of attorney must be on original document.
 - (3) The \$75 filing fee must accompany the motion. Appendix to 28 U.S.C. § 1930)
- (g)** Applications.
- (1) Chapter 7 or chapter 12:
 - (A) An original and two copies of an application must be filed.
 - (B) Signature of attorney must be on original documents.
 - (2) All other chapters:
 - (A) An original and one copy of an application must be filed.
 - (B) Signature of attorney must be on original documents.
- (h)** Motions to Reopen a Bankruptcy Case.
- (1) Chapter 7 or chapter 12:
 - (A) An original and two copies of the motion must be filed.
 - (B) Signature of attorney must be on original documents.

¹If a trustee or the debtor in possession is the plaintiff, the fee is payable only from the estate and to the extent there is any estate realized. An affidavit should accompany the adversary proceeding which attests to the reason the fee is absent whenever the adversary proceeding is submitted without the applicable fee.

²Ibid.

- (2) All other chapters:
 - (A) An original and one copy of the motion must be filed.
 - (B) Signature of attorney must be on original documents.
- (3) The following filing fee must be paid upon the filing of the motion: (Appendix to 28 U.S.C. § 1930)
 - (A) Chapters 7 and 13 - \$ 155.00
 - (B) Chapter 9 - \$ 800.00
 - (C) Chapter 11 - \$ 800.00
 - (D) Chapter 11 Railroad - \$1,000.00
 - (E) Chapter 12 - \$ 200.00

(i) Lien Avoidance and Valuation of Security Motions.

- (1) An original of the motion and accompanying documents required by SC LBR 4003-1 and 3012-1 must be filed. (See SC LBR 3015-1 and subparagraph (k) below for requirements of such motions in chapter 13 cases).
- (2) Signature of attorney for movant must be on original documents.

(j) Plans.

- (1) Chapter 11 - original and four copies.
- (2) Chapter 12 - original and three copies.

(k) Notice, Chapter 13 Plan and Related Motions.

- (1) Original and one copy.

(l) Monthly Reports.

- (1) Chapter 11 - original and one copy.
- (2) Chapter 12 - original and two copies.

UNITED STATES BANKRUPTCY COURT

SOUTH CAROLINA

Clerk's Instruction: Records and Issues on Appeal (CI-8006-1¹)

The procedures to be followed by any party seeking to file an appeal from a judgment, order, or decree of a bankruptcy judge to a district court are as follows:

- (a) The notice of appeal shall be filed with the clerk of this court within ten (10) days of the date of the entry of the judgment, order or decree appealed from. A notice of appeal filed after the announcement of a decision or order but before entry of the judgment, order, or decree shall be treated as filed after such entry and on the day thereof. The notice of appeal shall (1) conform to the appropriate Official Form; (2) contain the names of all parties to the judgment, order, or decree appealed from and the names, addresses and telephone numbers of their respective attorneys; and (3) be accompanied by the prescribed filing fee.
- (b) The bankruptcy judge may extend the time for filing the notice of appeal pursuant to the provisions of Federal Rule of Bankruptcy Procedure 8002(c) (Fed. R. Bankr. P. 8002(c)).
- (c) A motion for a stay of the judgment, order, or decree of a bankruptcy judge, for approval of a supersedeas bond, or for other relief pending appeal must ordinarily be presented to the bankruptcy judge in the first instance pursuant to the provisions of Fed. R. Bankr. P. 8005.
- (d) Within ten (10) days after filing the notice of appeal as provided by Fed. R. Bankr. P. 8001(a), entry of an order granting leave to appeal, or entry of an order disposing of the last timely motion outstanding of a type specified in Fed. R. Bankr. P. 8002(b), whichever is later, the appellant shall file with the clerk of this court and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented.
- (e) Within ten (10) days after the service of the appellant's statement the appellee may file and serve on the appellant a designation of additional items to be included in the record on appeal.
- (f) Any party intending not to file an additional designation of contents (after the appellant's designation) shall complete and file with the clerk a Statement as to Record on Appeal within ten (10) days after service of the appellant's designation. This form is provided to the parties to the appeal by the clerk's office and is used if a party does not intend to file an additional designation of the record or statement of issues.
- (g) All requests for transcripts shall be made directly to the court's electronic court recording operator (ECRO) and must be made in writing. The estimated cost of the transcript will be provided by the ECRO and must be paid in advance of its preparation. The search fee is specified in the Bankruptcy Court Miscellaneous Fee Schedule, (Appendix to 28 U.S.C. § 1930(b)) and will be charged for any transcript request when the transcript request is completed and subsequently canceled. All requests for tape duplications of any matter heard by the court shall be made directly to the court's ECRO. A duplication fee specified in the Bankruptcy Court Miscellaneous Fee

¹See SC LBR 8006-1

Schedule (per tape) must be paid to the clerk in advance.

- (h)** The clerk shall, pursuant to Fed. R. Bankr. P. 8007(c), retain in the court file all original documents constituting the record on appeal. Following the final disposition of the appeal, any exhibits which were a part of the record shall be disposed of pursuant to SC LBR 9017-1.
- (i)** The copy of the record to be transmitted to the District Court shall be furnished by the parties to the appeal by either:

 - (1) providing the clerk with copies of those documents designated by the party for transmission to the District Court; or,
 - (2) requesting the clerk to make the copies and paying the fifty cents (50¢) per page copy cost for each page designated as part of the record.

Failure to provide the copies, or to request the clerk to make the copies, by the time the record is otherwise ready for transmittal to the District Court, will result in the copies being made and the designating parties being billed at fifty cents (50¢) per page.

- (j)** The charges set forth in paragraph (i)(2) above shall be paid not later than twenty (20) days after a statement of charges is mailed to the designating party by the clerk of the bankruptcy court.

**United States Bankruptcy Court
South Carolina**

Clerk's Instruction: Motions on Passive Notice - CI-9014-2¹

Special motion days are scheduled each month. Counsel should make a reasonable and good faith effort to coordinate hearings on motions with the calendars of opposing counsel and the trustee in the case.

Hearing dates and locations for scheduled motions noticed passively are posted on the court's Internet web site at www.scb.uscourts.gov,² on PACER Classic, are available from the Intake Division of the clerk's office, published in the *Disclosure Statement* publication of the South Carolina Bankruptcy Law Association, and are posted outside the courtrooms. If the movant anticipates that a hearing may take one (1) hour or more, the movant should contact the Judge's law clerk or a courtroom deputy clerk to secure an alternative hearing date versus choosing one from the passive notice calendar dates.

The moving party must:

- (a) Select a Hearing Date: The moving party must select a hearing date from the calendar provided by the clerk which indicates dates designated as days available to schedule passive notice motions entitled "Motions Days". If the judge has more than one hearing date within the applicable time frames, the movant may select any of those dates. No hearing date further than seventy-five (75) days from the service of the motion may be used.
 - (1) Select a hearing date no less than ten (10) days following the last day for objections(as outlined in item "c" below).
 - (2) Schedule the motion in all cases in the same division as the case venue unless otherwise approved by the court.
 - (3) Prepare a hearing notice (Local Official Form 9014-2(a)) and indicate the date, time of hearing and hearing location (complete address)). The hearing notice shall be signed by the attorney representing the movant or by the movant only, if *pro se*.
- (b) Serve and Transmit the Motion: No more than Seventy-five (75) days prior to the scheduled hearing date, the moving party must serve on at least the debtor, attorney for the debtor, the trustee, if one is so appointed, and any other interested party entitled to notice and must simultaneously transmit to the clerk of court for filing:
 - (1) The motion;³
 - (2) The notice of hearing of the motion;

¹ See SC LBR 9014-2

² For detailed information and phone numbers in order to access PACER Classic or the court's Internet web site at www.scb.uscourts.gov, refer to Clerk's Instruction: Automation Services - CI-5001-1.

³ For Item 16 on the Passive Notice List (Applications for Fees) only the form notice must be served on all creditors and parties in interest. The United States Trustee must be served with the complete motion/application.

- (3) A proposed order;
- (4) A certificate of service of items 1-3.

(c) Response/Return or Objection to Motion: Any response, return and/or objection to the motion must be served no later than twenty (20)* days following the service date of the motion. The response, return and/or objection should be served on all parties in interest and must simultaneously be transmitted to the clerk of court for filing.

(1) The hearing notice which gives the date, time and location of the hearing will be calendared when a response, return and/or objection, or other request for hearing is timely filed, unless the Judge directs otherwise. Copies of court calendars are provided to members of the public and the bar as a courtesy (they are posted on PACER Classic and the court's Internet web site at www.scb.uscourts.gov); however, they should not be relied upon as absolute if there is a notice to the contrary, or a rule or procedure (such as this) which takes precedence.

(2) If the objection times expires without the filing of an response, return and/or objection or other request, the proposed order will be promptly submitted to the judge for his consideration. If the matter is otherwise settled between the parties, the courtroom deputy clerk shall be immediately advised by telephone and a consent order shall be submitted at or before the scheduled hearing date, or the terms of settlement shall be announced at the hearing and an order entered.

(d) Items on the current passive notice list, Local Official Form 9014-2(b), should be noticed and scheduled by the moving party using this Clerk's Instruction. The motions/applications which are marked with an asterisk have existing local official forms, which contain substantive language which must be included in either the notice or the separate motion/application.

- * The minimum time period for response, return and/or an objection to a motion to Reopen/Reconsider is fifteen (15) days.
- * The minimum time period for response, return and/or an objection to claim is thirty (30) days. See Federal Rule of Bankruptcy Procedure 3007. (Government Agency - thirty-five (35) days).
- * The minimum time period for response, return and/or an objection to application for final decree in a chapter 11 case is thirty (30) days.
- * The minimum time period for response, return and/or an objection to a motion to avoid lien or motion to establish value is twenty-five (25) days.
- * The minimum time period for response, return and/or an objection to all other motions/applications is twenty (20) days.

South Carolina Local Bankruptcy Rule (SCLBR)		Local Official Form (LOF)	Clerk's Instruction (CI)
SC LBR 1001-1:	Scope, Citation, and Applicability of Local Rules		
SC LBR 1002-1:	Filing of Petition	LOF 1002-1: Notice to Individual Consumer Debtor	
SC LBR 1006-1:	Payment of Filing Fee, Administrative Fee, and Trustee Surcharge Fee in Installments	LOF 1006-1: Application to Pay Filing Fee, Administrative Fee, and Trustee Surcharge Fee in Installments	
SC LBR 1007-1:	List of Creditors	LOF 1007-1(a): Request for Waiver LOF 1007-1(b): Certification Verifying Creditor Matrix	CI 1007-1(a): Submission of the List of Creditors on Computer Diskette CI 1007-1(b): Submission of the List of Creditors on Hard Copy in a Scannable Format
SC LBR 1007-2:	Filing of Lists, Schedules and Statements	LOF 1007-2: Debtor's Claim for Property Exemption	CI 1007-2: Debtor's Claim for Property Exemption
SC LBR 1007-3:	Filing of Statement of Intention		
SC LBR 1009-1:	Amendments of Voluntary Petitions, Lists, Schedules and Statements		
SC LBR 1014-1:	Case Venue and Proceeding Assignment and Transfers of Venue Within District		
SC LBR 1015-1:	Amending Petitions to Add Spouse and Separating a Joint Petition		
SC LBR 1019-1:	Disposition of Funds by Chapter 12 or 13 Trustees upon Conversion or Dismissal of Case		
SC LBR 2002-1:	Notices to Creditors		CI 2002-1: Notices to Creditors
SC LBR 2002-2:	Returned Notices		
SC LBR 2003-1:	Failure to Appear at Meeting of Creditors		
SC LBR 2014-1:	Employment of Professionals		
SC LBR 2015-1:	Monthly Reports		

South Carolina Local Bankruptcy Rule (SCLBR)		Local Official Form (LOF)	Clerk's Instruction (CI)
SC LBR 2016-1:	Retainers Held by Professional Persons and Chapter 11 Attorney Fee Application		
SC LBR 2081-1:	Chapter 11 Requirements		
SC LBR 2082-1:	Chapter 12 Requirements	LOF 2082-1: Chapter 12 Plan	
SC LBR 3003-1:	Proofs of Claim or Interest in Chapter 11 Cases		
SC LBR 3011-1:	Disposition of Unclaimed Dividends	LOF 3011-1(a): Individual Identification Form for Unclaimed Dividends LOF 3011-1(b): Corporation/Business Identification Form for Unclaimed Dividends LOF 3011-1(c): Motion for Payment of Unclaimed Dividends LOF 3011-1(d): Order Authorizing Payment of Unclaimed Dividends	CI 3011-1: Disposition of Unclaimed Dividends
SC LBR 3012-1:	Valuation of Security	LOF 9014-2(a): Notice of Motion/Application and Opportunity for Hearing LOF 3012-1(a): Motion to Value Security Under U.S.C. § 506(a) LOF 3012-1(b): Order Setting Value of Security	
SC LBR 3015-1:	Chapter 13	LOF 3015-1(a): Notice, Chapter 13 Plan and Related Motions LOF 3015-1(b): Notice of Plan Modification Before Confirmation LOF 3015-1(c): Notice of Plan Modification After Confirmation	
SC LBR 3018-1:	Ballots in Chapter 11 Cases	LOF 3018-1: Ballot for Accepting or Rejecting Plan	
SC LBR 4001-1:	Proceedings to Modify Stay	LOF 4001-1(a): Notice of Motion for Relief from Automatic Stay (11 U.S.C. § 362) LOF 4001-1(b): Certification of Facts LOF 4001-1(c): Settlement Order	CI 4001-1: Proceedings to Modify Stay
SC LBR 4001-2:	Offsets of Overpayment of Federal Taxes		

South Carolina Local Bankruptcy Rule (SCLBR)	Local Official Form (LOF)	Clerk's Instruction (CI)
SC LBR 4001-3: Collection of Child Support From Wages	LOF 9014-2(a): Notice of Motion/Application and Opportunity for Hearing LOF 4001-3(a): Motion for Permission to Collect Child Support LOF 4001-3(b): Certificate of Service LOF 4001-3(c): Order Granting Motion for Permission to Collect Child Support	
SC LBR 4001-4: Agreements Relating to Relief From The Automatic Stay, Prohibiting or Conditioning The Use, Sale or Lease of Property, Providing Adequate Protection, Use of Cash Collateral, And Obtaining Credit	LOF 4001-4: Notice and Motion Pursuant to Bankruptcy Rule 4001(d)	
SC LBR 4003-1: Motions to Avoid Lien	LOF 9014-2(a): Notice of Motion/Application and Opportunity for Hearing LOF 4003-1(a): Motion to Avoid Judicial Lien (11 U.S.C. § 522(f)) LOF 4003-1(b): Motion to Avoid Security Interest (11 U.S.C. § 522(f)(1)(B)) LOF 4003-1(c): Order Avoiding Non-Purchase Money, Nonpossessory Security Interest (11 U.S.C. § 522(f)(1)(B)) LOF 4003-1(d): Order Avoiding Judicial Lien (11 U.S.C. § 522(f)(1)(A))	
SC LBR 5001-1: Office of The Clerk		CI 5001-1: Automation Services
SC LBR 5005-1: Filing of Documents in Clerk's Office		CI 5005-1: Filing of Documents in Clerk's Office
SC LBR 5010-1: Reopening Cases	LOF 5010-1: Order Upon Motion Reopening Case	
SC LBR 5011-1: Withdrawal of Reference		
SC LBR 5073-1: Cameras And Recording Devices		
SC LBR 5076-1: Electronic Court Recording - Bench Conferences		

South Carolina Local Bankruptcy Rule (SCLBR)		Local Official Form (LOF)	Clerk's Instruction (CI)
SC LBR 6004-1:	Sale of Property	LOF 6004-1(a): Notice and Application for Sale of Property Free and Clear of Liens LOF 6004-1(b): Report of Sale LOF 6004-1(c): Order Authorizing Sale of Asset	
SC LBR 6006-1:	Assumption, Rejection or Assignment of an Executory Contract or Unexpired Lease		
SC LBR 6007-1:	Abandonment of Disposition of Property	LOF 6007-1(a): Notice and Application for Abandonment of Property LOF 6007-1(b): Order Authorizing Abandonment of Property LOF 6007-1(c): Consent Order Authorizing Abandonment of Property and Modifying Stay (Following Service of Notice of Abandonment of Property) LOF 6007-1(d): Consent Order Authorizing Abandonment of Property and Modifying Stay (Following Announcement of Abandonment at 11 U.S.C. § 341 Meeting of Creditors) LOF 6007-1(e): Certificate of no Objection	
SC LBR 7016-1:	Adversary Proceedings	LOF 7016-1: Certificate of Settlement of Contested Matter or an Adversary Proceeding	
SC LBR 7026-1:	Discovery		
SC LBR 7067-1:	Depositing Funds with the Court		
SC LBR 8006-1:	Records and Issues on Appeal		CI 8006-1: Records and Issues on Appeal
SC LBR 9001-1:	Definitions and Rules of Construction		
SC LBR 9006-1:	Extension of Time to Respond to Pleadings		
SC LBR 9010-1:	Practice Before the Court		
SC LBR 9014-1:	Motions Practice Generally	LOF 9014-1: Certification of Necessity for Emergency Hearing	

South Carolina Local Bankruptcy Rule (SCLBR)		Local Official Form (LOF)	Clerk's Instruction (CI)
SC LBR 9014-2:	Motions on Passive Notice	LOF 9014-2(a): Notice of Motion/Application and Opportunity for Hearing LOF 9014-2(b): Motions/Applications Approved for "Passive" Notice	CI 9014-2: Motions on Passive Notice
SC LBR 9014-3:	Hearings on Contested Matters	LOF 7016-1: Certificate of Settlement of § 362 Motion, Contested Matter, or an Adversary Proceeding	
SC LBR 9014-4:	Written Objections		
SC LBR 9017-1:	Custody of Exhibits		
SC LBR 9019 -1:	Compromise And Settlement	LOF 9019-1: Notice of Settlement and Compromise	
SC LBR 9029-1:	Standing Orders And Amendments to The Local Bankruptcy Rules		
SC LBR 9036-1:	Notice by Electronic Transmission		
SC LBR 9072-1:	Proposed Orders		